

1960

c 171 Highway Improvement Act

Ontario

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Bibliographic Citation

Highway Improvement Act, SO 1966, c 171

Repository Citation

Ontario (1960) "c 171 Highway Improvement Act," *Ontario: Revised Statutes*: Vol. 1960: Iss. 2, Article 46.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1960/iss2/46>

CHAPTER 171

The Highway Improvement Act**1. In this Act,**Interpre-
tation

- (a) "Board" means the Ontario Municipal Board;
- (b) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over, under or across which a highway passes;
- (c) "construction" includes re-construction;
- (d) "Department" means the Department of Highways;
- (e) "Deputy Minister" means the Deputy Minister of Highways;
- (f) "highway" means a common or public highway, or any part thereof, and includes a street, bridge and any other structure incidental thereto and any part thereof;
- (g) "land" includes an estate, term, easement, right or interest in, to, over or affecting land;
- (h) "maintenance" includes repair;
- (i) "Minister" means the Minister of Highways;
- (j) "owner" includes a mortgagee, lessee, tenant, occupant, person entitled to a limited estate or interest, and a guardian, executor, administrator or trustee in whom land or any interest therein is vested;
- (k) "regulations" means the regulations made under this Act;
- (l) "road" has the same meaning as highway;
- (m) "road authority" means a body having jurisdiction and control of a highway;
- (n) "roadway" means that part of a highway designed or intended for use by vehicular traffic. 1957, c. 43, s. 1.

PART I

THE KING'S HIGHWAY

Property
vested in
Crown

2.—(1) All property acquired under this Part is vested in the Crown and is under the jurisdiction and control of the Department.

Property
may be
sold, etc.

(2) Subject to subsection 2 of section 3, all property that is under the jurisdiction and control of the Department may be leased, sold or otherwise disposed of by the Minister. 1957, c. 43, s. 2.

Crown
Land
Plans

3.—(1) Where the Minister desires to acquire for the purposes of this Part jurisdiction and control over Crown lands not under the jurisdiction and control of the Department, he shall deposit with the Minister of Lands and Forests and register in the proper registry or land titles office a plan and description of the land to be known as and marked "Crown Land Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the land is under the jurisdiction and control of the Department for the purposes of this Part.

Crown
land no
longer
required

(2) Where the jurisdiction and control of land or a part thereof acquired under subsection 1 is no longer required for the purposes of this Part, the Minister may, with the approval of the Minister of Lands and Forests, by a writing signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, deposited with the Minister of Lands and Forests and registered in the proper registry or land titles office, declare that the jurisdiction and control of the land or part thereof is no longer required and thereupon such land or part thereof is under the jurisdiction and control of the Department of Lands and Forests. 1957, c. 43, s. 3.

Power to
enter on
land, etc.

4. The Minister or any person authorized by him may, without the consent of the owner,

- (a) enter upon and use any land;
- (b) alter in any manner any natural or artificial feature of any land;
- (c) construct and use roads on, to or from any land; or
- (d) place upon or remove from any land any substance or structure,

for any purpose of this Part. 1957, c. 43, s. 4.

5. The Lieutenant Governor in Council may designate a highway or proposed highway as the King's Highway. 1957, c. 43, s. 5. Designation of the King's Highway

6.—(1) Where the Minister desires to acquire an existing highway, he shall register in the proper registry or land titles office a plan and description of the highway to be known as and marked "Assumption Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the highway vests in the Crown, and the Minister forthwith shall give notice in writing of such vesting to any municipality concerned. Procedure for acquiring a highway
Assumption Plan

(2) The Minister may, before registering an Assumption Plan, register in the proper registry or land titles office a preliminary plan of the highway to be known as and marked "Preliminary Assumption Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and such Preliminary Assumption Plan when registered has the same force and effect as an Assumption Plan registered under subsection 1, but an Assumption Plan of the highway shall thereafter be registered under subsection 1. 1957, c. 43, s. 6. Preliminary Assumption Plan

7.—(1) The Minister may, in the name of Her Majesty, acquire by purchase, lease or otherwise or may, without the consent of the owner, expropriate any land for the purposes of this Part or for making compensation in whole or in part to any person under this Part. Land may be acquired or expropriated

(2) Where the Minister desires to expropriate land under this section, he shall register in the proper registry or land titles office a plan and description of the land to be known as and marked "Land Plan" and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and thereupon the land vests in the Crown. Procedure for expropriation of land
Land Plan

(3) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan and description so registered shall indicate, by appropriate words thereon, that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and by the registration in such case the land for such limited time or such limited estate, right or interest therein vests in the Crown. Where land temporarily required, etc.

Power to
take whole
lot when
part only
required

(4) Where the Minister is of opinion that he can obtain the whole of a lot or parcel of land at a more reasonable price or to greater advantage than by acquiring a part thereof only, he may expropriate the whole of the lot or parcel and also any right of way thereto. 1957, c. 43, s. 7.

Correction
of errors

8. In case of any omission, misstatement or erroneous description in a plan or description registered under this Part, the Minister may register in the proper registry or land titles office a plan or description replacing or amending such original plan or description and signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and by an Ontario land surveyor, and a plan registered under this section shall be marked to show the nature of the replacement or amendment and is of the same force and effect as and is in substitution for the original plan or description to the extent that such plan or description is replaced or amended thereby. 1957, c. 43, s. 8.

Verification
of plans and
descriptions

9. Where a plan and description purporting to be signed by any of the persons authorized so to do is registered under this Part, it shall be deemed to have been registered by the direction and authority of the Minister and as indicating that in the opinion of the Minister the highway described or the land described is necessary for the purposes of this Part, and the plan and description shall not be called in question except by the Minister or by a person authorized by the Minister. 1957, c. 43, s. 9.

Notice to
be given
to owner

10.—(1) Where any of the powers conferred by section 4 or 7 have been exercised, the Minister shall, within sixty days thereafter, give notice to the owner,

- (a) if the owner is known and his residence is known, by serving upon or by mailing by registered letter addressed to him at his last known place of residence a notice describing the land affected and the power exercised and stating that every person having any claim to compensation must file the claim in the office of the Minister within six months after the date of the notice, or, in the case of land injuriously affected, within six months after the injury complained of, or, in the case of a continuing injury, within one year from the time when the injury began or became known to him; or
- (b) if the owner is unknown or his place of residence is unknown, by the publication of a similar notice once a week for at least three weeks in a newspaper having

general circulation in the county or district in which the land affected is situate.

(2) Where notice has been given under subsection 1, a claim for compensation shall be made within the time limited by the notice. Where notice given

(3) Where no notice has been given under subsection 1, a claim for compensation may be made at any time by giving notice thereof to the Minister, and the provisions of this Part with respect to the fixing, payment and application of compensation apply thereto. 1957, c. 43, s. 10. Where no notice given

11.—(1) The Minister shall make due compensation to the owner of land for any damage necessarily resulting from the exercise of any of the powers conferred by section 4 or 7, beyond any advantage that the owner may derive from the contemplated work. Right to compensation

(2) Every such claim for compensation not agreed upon by the Minister and the claimant shall be determined by the Board and not otherwise, and *The Ontario Municipal Board Act*, except section 95, applies so far as is practicable to every such claim that is referred to the Board. Determination of compensation R.S.O. 1960, c. 274

(3) The Minister or the claimant may, with leave of the Court of Appeal, appeal to that court from any determination or order of the Board as to compensation under this Part. Appeal to Court of Appeal

(4) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Board and the rules of court as to court vacations apply. Time for appeal

(5) The leave may be granted on such terms as to the appellant giving security for costs and otherwise as the court deems just. Terms

(6) Subject to subsection 4, the practice and procedure as to the appeal and incidental thereto are the same *mutatis mutandis* as upon an appeal from a county court. 1957, c. 43, s. 11. Procedure

12.—(1) The compensation agreed upon or determined under section 11 stands in the stead of the land concerned, and any claim to or encumbrance on the land shall, as respects the Crown, be converted into a claim to or upon the compensation and no longer affects the land. Character of compensation

(2) If the compensation agreed upon or determined under section 11 does not exceed \$200, it may be paid to the person who may convey the land or agree as to the compensation without the giving of notice to any other person, saving always the rights of any other person to the compensation as against the person receiving it. 1957, c. 43, s. 12. Payment of compensation under \$200

Right of
Crown to
abandon
land expro-
priated

13.—(1) Where at any time before compensation for land expropriated has been agreed upon or determined under section 11 the land or a part thereof is found to be unnecessary for the purposes of this Part or if it is found that a more limited estate or interest therein only is required, the Minister may, by a writing signed by himself, or by the Deputy Minister, or by the Director of Services, or by the Superintendent of Properties, or by the Superintendent of Surveys, and registered in the proper registry or land titles office, declare that the land or such part thereof is not required and is abandoned by the Crown or that it is intended to retain only such limited estate or interest as is mentioned in the writing, and thereupon,

- (a) the land declared to be abandoned reverts in the person from whom it was expropriated and those entitled to claim under him; or
- (b) in the event of a limited estate or interest being retained by the Crown, the land so reverts subject to such limited estate or interest.

Effect upon
compen-
sation

(2) Where part only of the land or all of it except the limited estate or interest therein is abandoned, the fact of the abandonment and the damage, if any, sustained in consequence of that which is abandoned having been expropriated and all the other circumstances of the case shall be taken into account in determining the amount to be paid to a person claiming compensation.

Damages
where
abandon-
ment
complete

(3) Where the whole of the land is abandoned, the person from whom it was expropriated is entitled to all damages sustained and all costs incurred by him in consequence of the expropriation and abandonment, and the amount of the damages shall be determined in accordance with subsections 2 to 6 of section 11. 1957, c. 43, s. 13.

Payment
into court

14.—(1) In any case in which the Minister deems it advisable, he may, without an order, pay the compensation or damages into the office of the Accountant of the Supreme Court with interest thereon at 5 per cent for six months.

Payment
out of
court

(2) Upon an application for payment out of court of compensation or damages paid into court under subsection 1, a judge of the Supreme Court may direct that such notice of the application be given by publication or otherwise as he deems proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation or damages and as to costs as he deems just.

(3) If an order is obtained under subsection 2 in less than six months after the payment of the compensation or damages into court, the judge may direct a proportionate part of the interest to be returned to the Minister. Adjustment of interest

(4) Where unborn issue or an unascertained person or class are interested in the compensation or damages, the judge may appoint such person as he deems proper to represent or act for them and any order made is binding on them. Where unborn issue, etc., interested
1957, c. 43, s. 14.

15. Every person who is claiming compensation or damages under this Part shall, upon demand made therefor by the Minister or any person authorized by him, furnish to the Minister a true statement showing the particulars of his interest in the land concerned and of the claim made by him. Minister may require particulars
1957, c. 43, s. 15.

16. Where an injury to land alleged to be injuriously affected by the exercise of any of the powers mentioned in section 4 or 7 may be removed in whole or in part by an alteration in or addition to a work to which this Part applies or by the construction of an additional work or by the abandonment of a part of the land expropriated or by the grant of any land or easement, and if the Crown, before the compensation is agreed upon or determined, undertakes to make such alteration or addition or to construct such additional work or to abandon such part of the land expropriated or to grant such land or easement, the compensation shall be determined having regard to such undertaking, and the Board shall declare that, in addition to any compensation determined, the claimant is entitled to have such alteration or addition made or such additional work constructed or such part of the land abandoned or such grant made to him. When reparation by Crown may be ordered
1957, c. 43, s. 16.

17.—(1) Interest at the rate of 5 per cent per annum may be allowed on the compensation or damages from the time when the land was expropriated, used or injuriously affected, but no person who has been offered in writing a sum equal to or greater than the compensation or damages shall be allowed interest thereon for any period after the date of the offer. Interest

(2) Where the Board is of the opinion that any delay in determining the compensation or damages is attributable in whole or in part to the person entitled to the compensation or damages or any part of it, the Board may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may allow interest at such rate less than 5 per cent per annum as appears just. Where interest may be withheld
1957, c. 43, s. 17.

Payment of compensation, damages and costs

18. The Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any person any sum to which he is entitled under this Part as compensation, damages or costs. 1957, c. 43, s. 18.

Minister may exercise powers of municipality

19. The Minister has, within the limits of any municipality in which the King's Highway is situate, all the powers that may be exercised by that municipality in respect of its highways. 1957, c. 43, s. 19.

Previous rights and agreements

20.—(1) The Minister has in respect of the King's Highway all the rights, powers, benefits and advantages conferred by by-law or agreement or otherwise upon the municipality that had jurisdiction and control of the highway before the highway was vested in the Crown, and the Crown may sue thereon in the same manner and to the same extent as the municipality might have done if the highway had not vested in the Crown.

Right of Minister to copies of by-laws, etc.

(2) The Minister is entitled to a copy of any such by-law or agreement from the municipality and has the right to inquire into and ascertain full particulars concerning any such by-law or agreement. 1957, c. 43, s. 20.

Intersecting highways

21. Where the King's Highway intersects a highway that is not the King's Highway, the continuation of the King's Highway to its full width across the highway so intersected is the King's Highway. 1957, c. 43, s. 21.

Connecting links, cities, towns, villages and counties

22.—(1) Where it is deemed by the Minister that a highway that is under the jurisdiction and control of a city, town or village or that is in a city, town or village and under the control of the county should be constructed as a connecting link between parts of the King's Highway or as an extension of the King's Highway, the Lieutenant Governor in Council may designate such highway as a connecting link or as an extension, as the case may be, to be constructed by the city, town, village or county, and the council of the city, town, village or county may pass by-laws for issuing and may issue debentures under *The Municipal Act*, payable in such period as the Minister approves but not exceeding twenty years from the time or times when the debentures are issued, for an amount sufficient to pay the municipality's share of the cost of the construction of the highway, but in the case of a city, town or village, it is not necessary for the council to obtain the assent of the electors to any such by-laws for the issue of debentures or to observe the formalities in relation thereto prescribed by *The Municipal Act*.

R.S.O. 1960, c. 249

(2) In the case of a city, town or village, work required to be constructed under subsection 1 may be undertaken as a local improvement under *The Local Improvement Act*, and in that case the council may by by-law fix the proportion of the cost of the work to be borne by the municipality at large as the council deems proper.

Work as
local im-
provement
R.S.O. 1960,
c. 223

(3) The Minister and the council of a town, not being a separated town, or of a village may enter into an agreement for the construction and maintenance therein by the municipality or by the Department of a highway designated under subsection 1.

Agreement
for work,
towns and
villages

(4) The Minister and the council of a city or of a separated town may enter into an agreement for the construction therein by the municipality or by the Department of a highway designated under subsection 1.

Idem,
cities and
separated
towns

(5) The Minister and the council of a county may enter into an agreement, in the case of a highway in a town, not being a separated town, or a village, for the construction by the county or by the Department of a highway designated under subsection 1, and, in the case of a highway in a city or separated town, for the construction therein by the county or by the Department of a highway designated under subsection 1.

Idem,
counties

(6) An agreement under subsection 3, 4 or 5 may provide that a proportion of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village or county, as the case may be, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

Cost of
work

- (a) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village having a population of not more than 2,500, a sum equal to the cost of construction of a roadway of a width of not less than 22 feet and not more than 48 feet and of the maintenance of a roadway of a width of not more than 48 feet;
- (b) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village having a population of more than 2,500, a sum equal to the cost of construction of a construction of a roadway of a width of not less than 22 feet and not more than 48 feet and of the maintenance of a roadway having a width of not more than 48 feet; and

- (c) where the highway is in a city or separated town, a sum equal to 50 per cent of the cost of the construction of a roadway of a width of not less than 22 feet and not more than 48 feet.

Idem,
bridges
and
culverts

(7) Notwithstanding clause *b* of subsection 6, where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village having a population of more than 2,500 and the work consists of the construction or maintenance of a bridge or culvert, the agreement may provide that the proportion of the cost of the work that is to be paid out of the moneys appropriated therefor by the Legislature shall not exceed a sum equal to 80 per cent of the expenditure on such bridge or culvert that is properly chargeable to road improvement.

Idem,
additional
roadways
and widths

(8) An agreement under subsection 3, 4 or 5 may provide for the construction and maintenance or for the construction, as the case may be, of roadways or additional widths of roadways necessary to permit the proper interchange of traffic at intersections of the highway designated under subsection 1 with any other highway, and in that case the agreement may provide that a proportion of the cost of the construction and maintenance or construction, as the case may be, of the work shall be paid out of the moneys appropriated therefor by the Legislature and that the remainder shall be borne and paid by the city, town, village or county, but the proportion to be paid out of the moneys appropriated therefor by the Legislature shall not exceed,

- (a) where the highway is in a town, not being a separated town, having a population of not more than 2,500 or in a village having a population of not more than 2,500, a sum equal to the cost of the construction and maintenance of the work;
- (b) where the highway is in a town, not being a separated town, having a population of more than 2,500 or in a village having a population of more than 2,500, a sum equal to 75 per cent of the cost of the construction and maintenance of the work; and
- (c) where the highway is in a city or separated town, a sum equal to 50 per cent of the cost of the construction of the work.

Determina-
tion of
cost of
work

(9) For the purposes of an agreement entered into under subsection 3 or 4, the owner's share of the cost of local improvements shall not be included in the cost of the work without the consent of the Minister, nor may any other contribution received from any source be so included without the consent of the Minister.

(10) A highway does not, by reason of its having been constructed or maintained under this section, become the property of the Crown, but every such highway remains under the jurisdiction and control of the city, town, village or county, as the case may be. 1960, c. 44, s. 1.

Jurisdiction
and control
unchanged

23. The Minister and the council of a city, town or village may enter into an agreement for the preparation of a report, being a study of the development and improvement of the road system in the city, town or village in relation to the King's Highway, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of a sum not exceeding 75 per cent of the cost of the report. 1960, c. 44, s. 2.

Highway
needs
study
report

24.—(1) The Minister and a municipality in which a part of the King's Highway is situate or an owner of land adjoining a part of the King's Highway may enter into an agreement for the construction of a roadway of a greater width or with different specifications than those for the remainder of the roadway, and the Department may construct the roadway accordingly.

Agreement
for con-
struction of
greater
width of
roadway

(2) The additional cost entailed under such an agreement to be borne by a municipality may be raised by a special tax or by the issue of debentures under *The Local Improvement Act* or *The Municipal Act*, and debentures issued under either Act shall be payable within a period not exceeding twenty years from the date of the debentures, but it is not necessary to obtain the assent of the electors to any by-law for the issue of such debentures under *The Municipal Act* or to observe any of the provisions of *The Local Improvement Act* with respect to the undertaking of works as local improvements. 1957, c. 43, s. 23.

Raising cost
of special
work
R.S.O. 1960,
co. 223, 249

25.—(1) Where the Minister or a person authorized by him deems it advisable to change the grade or make other alterations upon a highway intersecting or affording access to the King's Highway or giving access to private property, the cost of the changes so made shall be deemed to be part of the cost of the construction of the King's Highway.

Grading
approaches
to King's
Highway

(2) A municipality shall not open, close or divert any highway or road allowance entering or touching upon or giving access to the King's Highway without the consent of the Lieutenant Governor in Council. 1957, c. 43, s. 24.

Consent to
closing of
highway
connecting
with King's
Highway

26.—(1) The Minister or a person authorized by him may initiate and carry out proceedings under any Act for the purpose of procuring proper drainage for the King's Highway,

Drainage of
the King's
Highway,

and the Minister or such authorized person has authority to file notices and declarations as owner with the clerk of the local municipality or municipalities, or may receive notices where any other person is the initiating party, in accordance with the procedure prescribed in the Act, but no drainage works shall be constructed upon the King's Highway under any Act without the consent of the Minister or such authorized person.

Drainage
engineer
for De-
partment

(2) The Minister may from time to time designate one or more engineers of the Department to be the engineer or engineers authorized to carry out the provisions of any Act for the purpose of procuring proper drainage for the King's Highway or other property under the control of the Department, and every engineer so designated has for such purpose all the powers and shall perform all the duties on behalf of the Department required of an engineer appointed by a municipality. 1957, c. 43, s. 25.

Construc-
tion of works

27. The Minister may construct, maintain and operate such works as he deems necessary or expedient for the purposes of this Part and he and any person, including a municipality or local board thereof, may enter into agreements with respect to any such works. 1957, c. 43, s. 26.

Closing
highway
to traffic

28.—(1) While a work authorized by this Part is in progress, the Minister or a person authorized by him may close to traffic the King's Highway on which the work is being done for such time as the Minister or such person, as the case may be, deems necessary.

Alternative
routes
during work

(2) While the King's Highway is so closed to traffic, the Department shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, or the Minister and a municipality may enter into an agreement for that purpose or the Minister may make a grant to a municipality for that purpose, and any such expenditure or grant shall be apportioned as a part of the cost of the work in progress on the King's Highway by reason of which the alternative route is necessary.

Barricades

(3) While the King's Highway is so closed to traffic, the Minister or a person authorized by him shall protect it by erecting or causing to be erected at each end of it, and wherever an alternative route deviates from it, a barricade upon which a red light shall be exposed and kept burning continuously from sunset until sunrise and at such points shall put up a detour sign indicating the alternative route and containing a notice that the highway is closed to traffic.

(4) Every person using the King's Highway closed to traffic in accordance with this section does so at his own risk and the Crown is not liable for any damage sustained by a person using the King's Highway so closed to traffic. ^{No Crown liability}

(5) Every person who without lawful authority uses the King's Highway so closed to traffic while it is protected in accordance with subsection 3, or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and is also liable to the Crown for any damage or injury occasioned by such wrongful use, removal or defacement. 1957, c. 43, s. 27. ^{Offence}

29.—(1) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Department may be closed. ^{Closing}

(2) The Lieutenant Governor in Council may direct that any part of the King's Highway or any part of any other highway that is under the jurisdiction and control of the Department shall revert to the road authority previously responsible for its maintenance or be transferred to the municipality within which it is situate, and it vests in and is under the jurisdiction and control of the road authority to which it so reverts or the municipality to which it is so transferred on and after the day named by the Lieutenant Governor in Council. ^{Reversion or transfer to municipality}

(3) Where the Lieutenant Governor in Council directs the reversion or transfer of a highway under subsection 2, any designation of the highway as the King's Highway or as a secondary highway is revoked on the day named by the Lieutenant Governor in Council under subsection 2. 1957, c. 43, s. 28. ^{Designation revoked}

30.—(1) The Department may plant trees upon the King's Highway and the cost thereof shall be part of the cost of its maintenance. ^{Planting trees}

(2) No person, including a municipality and a local board thereof, shall injure, destroy, cut or prune any tree within the limits of the King's Highway without first obtaining the consent in writing of the Minister or a person authorized by him. ^{Cutting, etc.}

(3) Every person who contravenes subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 per tree and not more than \$100 per tree ^{Offence}

and is also liable for any damage occasioned by the injuring, destroying, cutting or pruning.

Bonus for
planting
trees

(4) The Department may pay an amount not exceeding 75 cents for each elm, maple or other tree of a species approved by the Department planted on land adjoining the King's Highway in accordance with the conditions of a permit issued therefor by the Minister.

Bonus
chargeable

(5) The amounts paid under subsection 4 are chargeable to the moneys appropriated therefor by the Legislature and are payable upon a certificate of an engineer of the Department giving the name of the person entitled, the number of trees of each species planted and the amount to which the person is entitled and certifying that the trees have been planted for a period of three years and that they are alive, healthy and of good form and were planted in accordance with the conditions of the permit granted therefor by the Minister.

Agreements
re fences

(6) The Minister may agree with the owner of property adjoining the King's Highway with respect to the moving, removal or construction of a wire or other type of fence along the King's Highway and may pay the owner therefor.

Removal of
obstructions

(7) Subject to the payment of such compensation as is agreed upon or as is determined in the manner provided by section 11, the Minister may direct the owner of any tree, shrub, bush, hedge, fence, signboard, gasoline pump, building or other object growing or standing on lands adjacent to the King's Highway to remove it where in his opinion the safety or convenience of the travelling public so requires or where in his opinion it might cause the drifting or accumulation of snow or be injurious to the highway. 1957, c. 43, s. 29.

Interference
with King's
Highway

31.—(1) Notwithstanding anything in any general or special Act, no person, including a municipality and a local board thereof,

- (a) shall obstruct or deposit material on or take up or in any way interfere with the King's Highway; or
- (b) shall construct any private road, entranceway, gate or other structure or facility as a means of access to the King's Highway, other than a controlled-access highway,

except in accordance with the conditions of a permit issued therefor by the Minister. 1958, c. 35, s. 2.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$1,000. 1957, c. 43, s. 30 (2).

32.—(1) The Minister may make regulations prohibiting or regulating the use of the King's Highway by any class of vehicles or animals and may impose penalties for contravention thereof, but no such regulation has any force or effect until approved by the Lieutenant Governor in Council after notice to any municipality affected thereby. Regulating
use

(2) Every person who, being the owner or having the care, custody or control of horses, cattle, swine, sheep or goats, suffers or permits them or any of them to run at large within the limits of the King's Highway is guilty of an offence and on summary conviction is liable to a fine of not more than \$5 for every such animal found at large upon the highway, but this section does not create any civil liability on the part of the owner of the animal for damage caused to the property of others as a result of the animal running at large within the limits of the King's Highway. 1957, c. 43, s. 31. Horses,
cattle, etc.,
on highway

33.—(1) The King's Highway shall be maintained and kept in repair by the Department and any municipality in which any part of the King's Highway is situate is relieved from any liability therefor, but this does not apply to any sidewalk or municipal undertaking or work constructed or in course of construction by a municipality or which a municipality may lawfully do or construct upon the highway, and the municipality is liable for want of repair of the sidewalk, municipal undertaking or work, whether the want of repair is the result of nonfeasance or misfeasance, in the same manner and to the same extent as in the case of any other like work constructed by the municipality. Department
to maintain
and repair

(2) In case of default by the Department to keep the King's Highway in repair, the Crown is liable for all damage sustained by any person by reason of the default, and the amount recoverable by a person by reason of the default may be agreed upon with the Minister before or after the commencement of an action for the recovery of damages. Liability
for damage
in case of
default

(3) No action shall be brought against the Crown for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier adjacent to or in, along or upon the King's Highway or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or upon the King's Highway that is not on the roadway. Insufficiency
of fence, etc.

(4) No action shall be brought for the recovery of the damages mentioned in subsection 2 unless notice in writing of the claim and of the injury complained of has been served Notice of
claim

upon or sent by registered letter to the Minister within ten days after the happening of the injury, but the failure to give or the insufficiency of the notice is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the want or insufficiency of the notice and that the Crown is not thereby prejudiced in its defence.

Limitation
of action

(5) No action shall be brought against the Crown for the recovery of damages occasioned by the default mentioned in subsection 2, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time the damage was sustained.

Judgment,
how payable

(6) All damages and costs recovered under this section and any amount payable as the result of an agreement in settlement of a claim for damages and costs that has been approved of in writing by counsel is payable in the same manner as in the case of a judgment recovered against the Crown in any other action.

Style of
action

(7) In an action against the Crown under this section, the defendant shall be described as "Her Majesty the Queen in right of the Province of Ontario, represented by the Minister of Highways for the Province of Ontario", and it is not necessary to proceed by petition of right or to procure the fiat of the Lieutenant Governor or the consent of the Attorney General before commencing the action, but every such action may be instituted and carried on and judgment may be given thereon in the same manner as in an action brought by a subject of Her Majesty against another subject.

Counter-
claims and
third party
proceedings

(8) Notwithstanding any general or special Act, in an action against the Crown under this section, the defendant may set up by way of counterclaim any right or claim, whether the right or claim sounds in damages or not, and may claim contribution or indemnity from or any other relief over against any person not a party to the action, and every such counterclaim and claim may be instituted and carried on and judgment may be given as if such counterclaim or claim was made by a subject of Her Majesty against another subject.

Action to
be tried
without
jury

(9) An action against the Crown under this section shall be tried by a judge without the intervention of a jury, and the trial shall take place in the county in which the default occurred.

Liability
not to
exceed
that of
municipality

(10) The liability imposed by this section does not extend to a case in which a municipality having jurisdiction and control over the highway would not have been liable for the damage sustained. 1957, c. 43, s. 32.

34.—(1) In this section, “centre point of an intersection” ^{Interpretation} is the point where the centre line of the through part of the King’s Highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the King’s Highway.

(2) Notwithstanding any general or special Act, regulation, ^{King’s Highway, control} by-law or other authority, no person shall, except under a permit therefor from the Minister,

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of the King’s Highway or within 600 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of the King’s Highway or within 600 feet of the centre point of an intersection;
- (c) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of the King’s Highway; or
- (d) use any land, any part of which lies within one-half mile of any limit of the King’s Highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers.

(3) No person shall authorize or permit any act prohibited <sup>No authori-
zation by
others</sup> by subsection 2.

(4) The Minister may order that subsection 2 or such ^{Application} clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies.

(5) The Minister may give notice to the owner of any <sup>Notice to
remove, etc.</sup> land requiring him,

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub or hedge placed, erected or altered; or
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed,

in contravention of subsection 2.

Service of
notice

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following its mailing.

Failure to
comply with
notice

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, sign, notice or advertising device as required by the notice.

Offence

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and not less than \$50 and not more than \$500 for any subsequent offence.

Compensation

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other structure or a road, tree, shrub, hedge, sign, notice or advertising device was placed, erected or altered, as the case may be,

- (a) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or
- (b) before the day on which the King's Highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure

(10) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11.

Permits

(11) The Minister may issue permits under this section in such form and upon such terms and conditions as he deems proper, and may in his discretion cancel any such permit at any time.

Fee

(12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. 1957, c. 43, s. 33.

35.—(1) In this section, "intersection" means the part of the King's Highway contained within the prolongation or connection of the boundary lines of a private road that crosses the King's Highway. Interpretation

(2) The Lieutenant Governor in Council may make regulations designating provisions of *The Highway Traffic Act* or the regulations thereunder that shall not apply in intersections in territory without municipal organization. 1960, c. 44, s. 3. Private road, King's Highway intersections in unorganized territory
R.S.O. 1960, c. 172

PART II

CONTROLLED-ACCESS HIGHWAYS

36. The Lieutenant Governor in Council may designate any part of the King's Highway as a controlled-access highway. 1957, c. 43, s. 34. Controlled-access highway, designation

37.—(1) In this section, "road" includes an unopened road allowance. Interpretation

(2) Subject to the approval of the Board, the Minister may close any road, other than a highway that is under the jurisdiction and control of the Department, that intersects or runs into a controlled-access highway. Closing of intersecting municipal roads

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons, including municipalities and local boards thereof, as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the Minister within such time as the Board directs. Application for approval

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it deems proper. Powers of Board

(5) The Minister or a person, including a municipality or local board thereof, that has filed particulars of a claim or objection may, with leave of the Court of Appeal, appeal to that court from any order made under subsection 4, and subsections 4 to 6 of section 11 apply *mutatis mutandis* thereto. Appeal

(6) Upon the closing of a road in accordance with an order of approval, the Minister shall make due compensation to the owner of land injuriously affected by the closing and every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11, but no Compensation

claim by or on behalf of a person who has not filed particulars of his claim within the time directed by the Board under subsection 3 shall be allowed except by leave of the Board. 1957, c. 43, s. 35.

Interpre-
tation

38.—(1) In this section, “centre point of an intersection” is the point where the centre line of the through part or parts of a controlled-access highway meets the centre line of or the centre line of the prolongation of any other highway that intersects or meets the controlled-access highway.

Controlled-
access
highways,
control

(2) Notwithstanding any general or special Act, regulation, by-law or other authority, no person shall, except under a permit therefor from the Minister,

- (a) place, erect or alter any building, fence, gasoline pump or other structure or any road within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (b) place any tree, shrub or hedge within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (c) sell, offer or expose for sale any vegetables, fruit or other produce or any goods or merchandise upon or within 150 feet of any limit of a controlled-access highway or within 1,300 feet of the centre point of an intersection;
- (d) place, erect or alter any power line, pole line or other transmission line within one-quarter mile of any limit of a controlled-access highway;
- (e) display any sign, notice or advertising device, whether it contains words or not, other than one sign not more than two feet by one foot in size displaying the name or the name and occupation of the owner of the premises to which it is affixed or the name of such premises within one-quarter mile of any limit of a controlled-access highway;
- (f) use any land, any part of which lies within one-half mile of any limit of a controlled-access highway, for the purposes of a shopping centre, stadium, fair ground, race track, drive-in theatre or any other purpose that causes persons to congregate in large numbers; or
- (g) construct or use any private road, entranceway, gate, or other structure or facility as a means of access to a controlled-access highway.

(3) No person shall authorize or permit any act prohibited by subsection 2. No authorization by others

(4) The Minister may order that subsection 2 or such clauses thereof as he specifies do not apply within the limits of any city, town or village or such parts thereof as he specifies. Application

(5) The Minister may give notice to the owner of any land requiring him, Notice to remove, etc.

- (a) to remove therefrom or alter thereon any building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line placed, erected or altered; or
- (b) to remove therefrom or alter thereon any sign, notice or advertising device displayed; or
- (c) to close up any private road, entranceway, gate or other structure or facility constructed or maintained as a means of access to a controlled-access highway,

in contravention of subsection 2.

(6) Every notice given under subsection 5 shall be in writing and shall be served personally or by registered letter, and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof. Service of notice

(7) Where the person to whom notice is given under subsection 5 fails to comply with the notice within thirty days after its receipt, the Minister may in writing direct any officer, employee or agent of the Department to enter upon the land of such person and do or cause to be done whatever is necessary to remove or alter the building, fence, gasoline pump or other structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, or to close up the private road, entranceway, gate or other structure or facility as required by the notice. Failure to comply with notice

(8) Every person who contravenes any of the provisions of subsection 2 or 3 or who fails to comply with a notice given under subsection 5 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for any subsequent offence. Offence

(9) Where a notice given under subsection 5 has been complied with, the Minister shall make due compensation to the owner of the land if the building, fence, gasoline pump or other Compensation

structure or any road, tree, shrub, hedge, power line, pole line or other transmission line, sign, notice or advertising device, private road, entranceway, gate or other structure or facility was placed, erected, altered, constructed or used, as the case may be,

- (a) before the 24th day of March, 1950, and in compliance with *The Highway Improvement Act*, being chapter 56 of the Revised Statutes of Ontario, 1937, and the regulations thereunder; or
- (b) before the day on which the controlled-access highway was so designated and in compliance with *The Highway Improvement Act* that was in force on that day; or
- (c) in compliance with a permit therefor, in which case the making of compensation is subject to the provisions of the permit.

Procedure (10) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11.

Permits (11) The Minister may issue permits under this section in such form and upon such terms and conditions as he deems proper and may in his discretion cancel any such permit at any time.

Fee (12) The Minister may prescribe the fee to be paid for any permit or class of permit under this section. 1957, c. 43, s. 36.

Regulation of vehicles and animals **39.**—(1) The Minister may make regulations prohibiting or regulating the use of controlled-access highways by any class of vehicles or animals.

Offence (2) Every person who contravenes any regulation made under this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$5 and not more than \$50. 1957, c. 43, s. 37.

Service roads **40.** The Minister and any municipality may enter into agreements for the establishment, construction and apportionment of the cost of roads within the municipality for the purpose of providing means of access to a controlled-access highway at a point where access is permitted. 1957, c. 43, s. 38.

PART III

SECONDARY HIGHWAYS

Secondary highways, designation **41.** The Lieutenant Governor in Council may designate any highway as a secondary highway and thereupon Part I and all the other provisions of this Act and the regulations

that apply to the King's Highway apply *mutatis mutandis* to such secondary highway. 1957, c. 43, s. 39.

PART IV

TERTIARY ROADS

42.—(1) The Lieutenant Governor in Council may designate an existing road in territory without municipal organization as a tertiary road and thereupon the provisions of this Act and the regulations that apply to the King's Highway, except sections 33 and 34, apply *mutatis mutandis* to such tertiary road. Tertiary roads, designation

(2) Subject to subsections 4 and 5, a tertiary road shall be maintained by the Department, but such maintenance does not include the clearing or removal of snow therefrom or the application of chemicals or abrasives to the icy surfaces hereof. maintenance

(3) No action shall be brought against the Crown for damages caused by the default of the Department in maintaining a tertiary road, and the Crown is not liable for any damage sustained by any person using a tertiary road. liability for damages

(4) The Minister may enter into an agreement with any person for the removal of snow from a tertiary road or the application of chemicals or abrasives to the ice surfaces thereof, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of the moneys appropriated therefor by the Legislature. snow removal

(5) Where the Minister deems it desirable that persons who own land in territory without municipal organization in which a tertiary road is situate should elect road commissioners and maintain it under *The Statute Labour Act* or become incorporated under *The Municipal Act* or otherwise contribute to its maintenance, it shall not be maintained by the Department unless the interested persons enter into an agreement with the Minister for such maintenance, and the agreement shall provide that not more than 50 per cent of the cost of the work shall be paid out of moneys appropriated therefor by the Legislature. 1960, c. 44, s. 4, *part*. maintenance contributions
R.S.O. 1960,
cc. 382, 249

PART V

RESOURCE ROADS

43.—(1) The Lieutenant Governor in Council may designate a tertiary road as a resource road. Resource roads, designation

Load limits, etc., do not apply
R.S.O. 1960, c. 172

(2) Sections 45, 52, 53, 54, 55 and 58 of *The Highway Traffic Act* do not apply to a resource road or to vehicles operated upon a resource road, as the case may be. 1960, c. 44, s. 4, *part*.

PART VI

INDUSTRIAL ROADS

Industrial roads, designation

44.—(1) The Minister may designate as an industrial road a private road that he deems necessary for the development or operation of the lumbering, pulp or mining industry but which in his opinion should also be used by the public for road purposes other than those of the industry.

maintenance

(2) The Minister and the owner of an industrial road may enter into an agreement for the maintenance of the industrial road by the owner, and as long as the owner permits the public to use the industrial road the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost of maintenance as he deems requisite.

jurisdiction and control

(3) Notwithstanding any other Act, an industrial road remains a private road under the jurisdiction and control of the owner, but subject to the use of the public as described in subsections 1 and 2. 1960, c. 44, s. 4, *part*.

PART VII

COUNTY ROADS

Establishment of system

45.—(1) A county may by by-law adopt a plan of county road construction and maintenance and establish a county road system by designating the roads in any municipality in the county that are to form the system and may include in the system such boundary-line roads between the county and any other county or between the county and a city or separated town as are agreed upon by the municipalities interested.

General rate

(2) The by-law shall provide for the levying of a general annual rate upon all the municipalities in the county not separated therefrom for municipal purposes unless the Minister is of opinion that on account of the remoteness of a municipality from the roads in the county road system it is inequitable that the rate should be levied in such municipality, in which case the by-law shall exempt such municipality accordingly, but the representative or representatives in the county council of a municipality so exempt shall not vote upon a by-law passed under this Part, and for the

purposes of section 49 the equalized assessment of a municipality so exempt shall not be included in ascertaining the total equalized assessment of the county.

(3) All moneys raised under the by-law shall be applied in the construction and maintenance of roads in the county road system and to any expenditure properly chargeable to the county road system under this Part. Application of proceeds of rate

(4) A county may, by by-law, amend a by-law passed under this section in any manner, including the addition of roads to, or the removal of roads from, the county road system. Amendment

(5) A county may by by-law consolidate the by-law establishing its county road system and all by-laws amending such by-law, and may from time to time by by-law consolidate any such consolidating by-law and all by-laws amending such consolidating by-law. Consolidating by-law

(6) Every by-law passed under this section shall be submitted to the Minister for approval by the Lieutenant Governor in Council and the Lieutenant Governor in Council may approve the by-law in whole or in part and where the by-law is approved in part only, it shall be in force and take effect only so far as approved, but it is not necessary for the county to pass any further by-law amending the original by-law or repealing any part thereof that has not been approved, and every such by-law as so approved is in force and has effect on and after the day on which the approval is given. Approval

(7) Every road that forms part of a county road system vests in the county and is under the jurisdiction and control of the county on and after the day on which the by-law designating the road is approved by the Lieutenant Governor in Council. Vesting of roads in county

(8) Every road that is removed from a county road system vests in the local municipality in which it is situate and is under the jurisdiction and control of that municipality on and after the day on which the by-law removing the road is approved by the Lieutenant Governor in Council. Revesting of roads in local municipality

(9) Where the Minister is of opinion that a road that forms part of a county road system is not of sufficient importance to be constructed and maintained as part of the system, the Lieutenant Governor in Council may revoke the approval of the designation of the road as part of the system, and the road thereupon vests in the local municipality in which it is situate. 1957, c. 43, s. 40. Revocation of approval

46.—(1) Where a county road system is established under this Part, the county council shall appoint by by-law three County road committee

or five persons who are residents of the county, but who need not be members of the council, who shall constitute a committee to direct the work to be done on the county road system.

Term of
office

(2) Where the committee consists of three members, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of three years, and where the committee consists of five members, one member shall be appointed and hold office for a term of five years, one member shall be appointed and hold office for a term of four years, one member shall be appointed and hold office for a term of three years, one member shall be appointed and hold office for a term of two years and one member shall be appointed and hold office for a term of one year, and thereafter each member shall be appointed and hold office for a term of five years.

Re-appoint-
ment

(3) A member of the committee is eligible for re-appointment upon the expiry of his term of office.

Removal
from office

(4) A member of the committee may be removed by a vote of two-thirds of the members of the county council present and voting thereon at a regular meeting of the council.

Vacancies

(5) Where a member of the committee is so removed or dies or resigns his office, the county council may appoint some other person to fill the vacancy for the remainder of the term for which the person so removed, dying or resigning was appointed.

Warden
ex officio
member

(6) The warden of the county for the time being is *ex officio* a member of the committee and may sit and vote thereon.

Suburban
road com-
missioners
as county
road
committee

(7) Where a county road system is established under this Part in a county in which a suburban roads commission has been appointed, the county may by by-law provide that the members from time to time of the suburban roads commission constitute the committee to direct the work to be done on the county road system and in such case this section does not apply. 1957, c. 43, s. 41.

County road
superin-
tendent

47.—(1) Where a county road system is established under this Part, the county shall by by-law appoint a county road superintendent who shall be a professional engineer registered as a civil engineer under *The Professional Engineers Act*.

R.S.O. 1960,
c. 309

(2) The county road superintendent shall, under the direction of the county road committee, administer and manage the county road system. Duties

(3) Where a vacancy occurs in the office of county road superintendent, the county shall appoint another qualified person to the office. Vacancy

(4) A copy of every by-law appointing a county road superintendent or dealing with his salary and allowance shall be transmitted to the Minister within thirty days of the passing thereof and has no force or effect until approved in writing by the Minister, and when so approved shall not be repealed or amended without the approval in writing of the Minister. Copy of by-law to be sent to Minister
1957, c. 43, s. 42 (1-4).

(5) Notwithstanding *The Municipal Act*, no member of the county council and no member of the council of a local municipality in the county shall be appointed or act as county road superintendent or be employed by the county road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention. 1957, c. 43, s. 42 (5); 1960, c. 44, s. 5. Members of councils not to be appointed R.S.O. 1950, o. 249

48. The disbursement of all moneys pertaining to the county road system shall be made by the county treasurer only on the certificate of the county road superintendent approved by the county road committee as certified under the hand of the chairman thereof. 1957, c. 43, s. 43. Payment, how to be made

49.—(1) Subject to subsection 2, a county may, without the assent of the electors, pass by-laws to raise by debentures payable in not more than twenty years in the manner provided by *The Municipal Act* such sums as may be necessary to meet the actual expenditure for the construction of roads under this Part. Debentures

(2) Where a county has paid over moneys raised on sinking fund account to the Treasurer of Ontario under section 315 of *The Municipal Act*, the amount to be raised for the construction of roads under subsection 1 may be a sum not exceeding the total amount so in the hands of the Treasurer of Ontario with 5 per cent of the equalized assessment of the county added thereto. Limit of amount of county rate

(3) A county may agree with a chartered bank or loan or trust corporation or with any person for temporary advances to meet the cost of construction of roads under this Part, but the total of such temporary advances shall not exceed in any one year the amount to be provided by the county Temporary advances

together with the proportion of aid to be received from the Province, and the amount receivable from cities and towns as contributions on account of suburban roads under Part VIII, and the county may pass by-laws to raise by debentures in the same manner as provided in subsection 1 such sums as may be necessary to repay such temporary advances. 1957, c. 43, s. 44.

Submission
of by-law
covering
estimated
expenditure

50.—(1) Every county that has established a county road system shall submit to the Minister for his approval a by-law covering the estimated expenditure on roads for the calendar year not later than the 31st day of March of the year in which the expenditure is to be made, and such by-law shall include expenditures to be made by any suburban roads commission in the county. 1957, c. 43, s. 45 (1).

Supplemen-
tary by-law

(2) A county may at any time submit to the Minister for his approval a by-law covering an estimated expenditure on roads supplementing the by-law submitted under subsection 1. 1958, c. 35, s. 3.

Subsidy

(3) No subsidy shall be granted to a county for work undertaken by the county that has not been provided for by a by-law approved by the Minister. 1957, c. 43, s. 45 (2).

Annual
statement
to Minister

51.—(1) Where a plan of road construction and maintenance under this Part is being carried out, the county shall annually, and may with the consent of the Minister at any time during the progress of the work, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the county road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the county treasurer that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the grant authorized by resolution of the council, or in the case of an interim statement, by resolution of the county road committee.

Payment
to county

(2) Upon receipt of the statement, declarations and petition, the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent, or in the case of a bridge or culvert an amount not exceeding 80 per cent, of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

(3) Except with the consent of the Minister, no expenditure towards which a contribution has been or may be made from any source shall be included in a statement submitted under this section. 1957, c. 43, s. 46.

Certain expenditures not included in statement

52. The roads forming part of a county road system shall be maintained and kept in repair by the county, and in all cases the Minister shall determine the amount of the expenditure for construction or maintenance or for the purchase or maintenance of road machinery, plant and equipment that is properly chargeable to road improvement under this Act, and his decision is final. 1957, c. 43, s. 47.

Roads to be county roads

53. Every road constructed or maintained as part of a county road system shall be constructed and maintained in accordance with the requirements of the Minister. 1957, c. 43, s. 48.

County road system, construction and maintenance

54. Expenditure for which a county may be entitled to aid to county roads under this Act may include the maintenance by the county of a ferry service that forms a connecting link of a county road system or forms a link between the county road systems of adjacent counties, and may also include the cost of purchasing, establishing and equipping such ferry service, but when so aided, the equipment, service and tolls therefor are subject to the approval of the Minister. 1957, c. 43, s. 49.

County expenditure may include ferry service

55.—(1) Where under *The Municipal Act* a county has jurisdiction over a bridge that is more than twenty feet in span and the bridge is not in the county road system, the expenditure involved in constructing and maintaining the bridge under the supervision of the county road superintendent in accordance with plans approved by an officer of the Department designated by the Minister shall be deemed to form part of the expenditure in carrying out the plan of county road construction and maintenance, and debentures issued by a county after the 8th day of April, 1926, for the construction of any such bridge are legal, valid and binding upon the county and the ratepayers thereof notwithstanding that the by-law authorizing the issue thereof has not been submitted to and did not receive the assent of the ratepayers in accordance with *The Municipal Act*.

County expenditure may include county bridges
R.S.O. 1950, c. 249

(2) The Minister may direct the payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent of the cost of constructing and maintaining any such bridge more than twenty feet in span in accordance with plans approved by an officer of the Department designated by the Minister.

Aid to county bridges

Transfer
of small
bridges

(3) A county may by by-law provide that jurisdiction over every bridge of twenty feet or less in span that is not included in the county road system shall be transferred to the local municipality or municipalities in which it is situate, and thereupon all the rights, liabilities and obligations of the county with respect to such bridge are transferred to and vested in and imposed upon such local municipality or municipalities.

Diverting
road to
avoid con-
struction
of bridge
R.S.O. 1960,
c. 249

(4) A county, with the approval of the Lieutenant Governor in Council, may by by-law provide for the closing of any bridge over which the county has jurisdiction under *The Municipal Act* or the substitution thereof of any other structure and for that purpose may exercise as to such bridge or other structure and the approaches thereto all the powers of a county as to roads and bridges in a county road system. 1957, c. 43, s. 50.

Intersection
of other
roads by
county road

56. Where a county road intersects a road that is not a county road, the continuation of the county road to its full width across the road so intersected is a part of the county road system, except in the case of an intersection by a county road of the King's Highway, in which case section 21 applies. 1957, c. 43, s. 51.

Sidewalks
excepted

57. A county is not liable for the construction or maintenance of sidewalks on any road in its county road system. 1957, c. 43, s. 52.

Contrib-
ution of cities,
etc., to
improve-
ment of
county roads

58. Where a county road leading or adjacent to a city or separated town is or is to be improved or requires or will require the expenditure of a greater amount for maintenance to meet in any such case the requirements of increased, heavy or other extraordinary traffic to or from the city or separated town beyond the requirements which, but for the existence of the city or separated town, would be deemed those of a standard road for the locality, the city or separated town by by-law passed with the assent of at least two-thirds of the members of the council thereof may agree with the county to contribute such additional cost, or a proper proportion of the cost, or that the amount of the contribution of the city or separated town shall be determined by arbitration under *The Municipal Act*, and may, without the assent of the electors, provide by by-law for the issue of debentures payable in not more than twenty years from the date of the issue thereof to raise the amount agreed upon or awarded, or may agree with the county for the payment of such amounts in annual instalments to be raised by an annual special rate upon the rateable property in the city or separated town. 1957, c. 43, s. 53.

59.—(1) A local municipality that is not separated from the county and the county or the suburban roads commission may enter into an agreement in writing providing for the widening of any county or suburban road in the local municipality or for the construction of a pavement more than twenty-two feet in width or other special construction thereon and for the maintenance of such pavement or other special construction.

Agreement between local municipality and county for extra work

(2) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work, but no work shall be done until the agreement has been approved in writing by the Minister.

Either party may do work; consent of Minister

(3) Where the agreement provides that the land required for the widening of the road is to be acquired by the local municipality, the local municipality, notwithstanding section 414 of *The Municipal Act*, may pass by-laws for widening the road and acquiring by purchase or otherwise or expropriating such land, and the provisions of *The Municipal Act* as to the acquiring, occupying and taking of land for municipal purposes apply to the acquiring, occupying or taking of land under any such by-law.

Acquisition of land by local municipality

R.S.O. 1960, c. 249

(4) The local municipality shall convey the land so acquired to the county and thereupon the land becomes a part of the road and is included in the county road system, and, where the road has been designated and approved as a suburban road under Part VIII, the land becomes part of the suburban road.

Transfer to county

(5) In the case of the construction of a pavement more than twenty-two feet in width, the agreement shall provide the proportion in which the cost thereof is to be borne by the respective parties, but such cost shall not include the cost of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the local municipality.

Apportionment of cost of construction of wider pavements

(6) The proportion of the cost of constructing such wider pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of a strip of the pavement twenty-two feet in width to the total area of such pavement, and, where a part of the roadway that is to be paved is occupied by the track allowance of a street railway, for the purpose of determining such minimum proportion, the cost of constructing such track allowance including the paving thereof shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area.

Minimum proportion to be borne by county or suburban roads commission

Idem, in case of the widening of an existing pavement

(7) Where there is an existing pavement less than twenty-two feet in width on the county or suburban road and a wider pavement is agreed upon, the proportion of the cost of constructing the additional width of pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of that part of such additional width which together with the existing pavement would provide a total paved width of twenty-two feet to the total area of such additional width of pavement.

Idem

(8) Where there is an existing pavement twenty-two feet or more in width on the county or suburban road and a wider pavement is agreed upon, the agreement may provide that the cost of constructing the additional width of pavement is to be borne entirely by either of the parties or in any agreed proportion by each of them.

Apportionment of cost of maintenance

(9) In the case of the maintenance of a pavement more than twenty-two feet in width, the agreement shall provide the proportion of the cost thereof, including the removal of snow and the application of chemicals or abrasives and the removal thereof, that is to be borne by the respective parties, but such cost shall not include the cost of maintaining curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the local municipality.

Minimum proportion to be borne by county or suburban roads commission

(10) The proportion of the cost of maintaining such wider pavement that is to be borne by the county or the suburban roads commission shall not be less than the proportion of the area of a strip of the pavement twenty-two feet in width to the total area of such pavement, and, where a part of the paved roadway is occupied by the track allowance of a street railway, for the purpose of determining such minimum proportion, the cost of maintaining such track allowance shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area.

Failure to agree

(11) Where the local municipality and the county or the suburban roads commission are unable to agree upon a term or condition of an agreement authorized by this section or where either the local municipality and the county or the suburban roads commission refuses to enter into such an agreement, the Minister may prescribe such term or condition or may require such an agreement to be entered into and such agreement may be enforced in the same manner as an agreement executed by the local municipality and by the county or the suburban roads commission.

Debentures for local municipality's share

(12) The local municipality may pass by-laws to raise by debentures such sum as may be necessary to meet its share of the cost of the widening of the road or the construction

of a pavement under an agreement entered into under this section and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or such share may be assessed under *The Local Improvement Act* according to the report of an engineer.

R.S.O. 1960,
cc. 249, 223

(13) Where the Minister has approved an agreement under this section, the cost of the widening of the road, the construction of a pavement, the maintenance of a pavement, the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement that is borne and paid by the local municipality in accordance with the agreement may, for the purpose of determining the grant payable to the local municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures on roads under the jurisdiction of the local municipality submitted to the Minister under this Act, but the cost of constructing or maintaining any sanitary or storm sewer or drain shall not be included in such statement.

Subsidy
to local
municipality

(14) Where the agreement provides that the pavement or a part thereof is to be maintained and kept in repair by the local municipality and the local municipality makes default in so doing and the county or the suburban roads commission becomes liable under section 443 of *The Municipal Act* for damage suffered by or occasioned to any person in consequence of such default, the county or the suburban roads commission is entitled to the remedy over against the local municipality provided for by section 450 of *The Municipal Act*. 1957, c. 43, s. 54.

Remedy
over

60.—(1) Where a road in an urban municipality not separated from the county is not a part of the county road system but is an extension of or connects roads in the county road system, the county shall enter into an agreement in writing with the urban municipality for the maintenance of such road, and, if it is in the public interest that such road be constructed, for the construction thereof.

Agreement
between
county and
urban municipality re
county road
extensions,
etc.

(2) Where the county and the urban municipality are unable to agree whether it is in the public interest that such road be constructed, the Minister shall decide the issue and his decision is final.

Failure
to agree

(3) Where a county and an urban municipality are unable to agree upon a term or condition or the form of an agreement required to be entered into under subsection 1 or where either refuses to enter into such an agreement, the Minister may prescribe the terms, conditions or form thereof, or all

Idem

of them, or may require such an agreement to be entered into, and such agreement may be enforced in the same manner as an agreement executed by the county and the urban municipality.

Approval
of
Minister

(4) The agreement has no force or effect until approved in writing by the Minister.

Either
party may
do work

(5) The agreement shall specify the party that is to do the work and the manner in which and the time or times at which the other party is to pay its share of the expenditure made by the party doing the work.

How con-
struction
cost to
be borne

(6) In the case of the construction of a pavement twenty-two feet or less in width, the agreement shall provide that the county is to pay the total cost of such construction.

Idem, in
case of
wider
pavement

(7) In the case of the construction of a pavement more than twenty-two feet in width, the agreement shall provide that the county is to pay that part of the total cost of such construction that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement twenty-two feet in width bears to the total area of such pavement or such approximation to that proportion as is agreed upon.

Idem, in
case of
widening
existing
pavement

(8) Where there is an existing pavement twenty-two feet or less in width and the urban municipality desires to widen it, the agreement shall provide that the county is to pay that part of the total cost of constructing the additional width of pavement that bears the same proportion to such total cost as the area of that part of such additional width which together with the existing pavement would provide a total paved width of twenty-two feet bears to the total area of such additional width of pavement or such approximation to that proportion as is agreed upon.

Total cost,
what to
include

(9) The total cost mentioned in subsections 6, 7 and 8 includes the cost of any necessary grading, shouldering, under-drainage or base construction, but does not include the cost of the construction of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the urban municipality.

How main-
tenance
cost to be
borne

(10) In the case of the maintenance of a pavement or roadway twenty-two feet or less in width, the agreement shall provide that the county is to pay the total cost of such maintenance.

Idem, in
case of
wider
roadway

(11) In the case of the maintenance of a pavement or roadway more than twenty-two feet in width, the agreement shall provide that the county is to pay that part of the total cost of such maintenance that bears the same proportion to such total cost as the area of a longitudinal strip of the pavement

or roadway twenty-two feet in width bears to the total area of such pavement or roadway or such approximation to that proportion as is agreed upon.

(12) The total cost mentioned in subsections 10 and 11 includes the cost of the removal of snow and the application of chemicals and abrasives and the removal thereof, but does not include the cost of the maintenance of curbs, gutters, catch basins, sanitary or storm sewers or drains or any other special work, all of which cost shall be borne by the urban municipality. Total cost, what to include

(13) Where a part of the pavement or roadway is occupied by the track allowance of a street railway, then for the purposes of an agreement under this section such track allowance shall be deemed not to form part of the pavement or roadway, and, in determining the cost of construction or maintenance that is to be borne by the respective parties, the cost of constructing or maintaining such track allowance, including the pavement thereof, shall be excluded from the total cost and the area of such track allowance shall be excluded from the total area of the pavement or roadway. In case of street railway

(14) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway that is borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may, for the purpose of determining the grant payable to the county out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the county under this Part. Subsidy to county

(15) The part of the cost of the construction of a pavement and the maintenance of a pavement or roadway, including the construction and maintenance of curbs, gutters, catch basins and any other special work properly chargeable to road improvement that is borne by the urban municipality under the agreement, may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X, but the cost of constructing or maintaining any sanitary or storm sewer or drain shall not be included in such statement. Subsidy to urban municipality

(16) In the case of the construction or maintenance of a culvert or bridge on, over or across which the roadway passes and which is under the jurisdiction and control of the urban municipality, the agreement shall provide that the cost of such construction or maintenance, exclusive of any part thereof that is incurred to provide for sidewalks or for the Construction or maintenance of culvert or bridge, how cost to be borne

track allowance of a street railway, is to be borne 50 per cent by the county and 50 per cent by the urban municipality.

Subsidy to
county

(17) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the county under the agreement shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount not exceeding 80 per cent thereof.

Subsidy to
urban
municipality

(18) The part of the cost of the construction or maintenance of such culvert or bridge that is to be borne by the urban municipality may, for the purpose of determining the grant payable to the urban municipality out of the moneys appropriated therefor by the Legislature, be included in the statement of expenditures submitted to the Minister by the urban municipality under Part X.

Jurisdiction

(19) A road that is constructed or maintained under this section remains under the jurisdiction and control of the urban municipality and it may pass by-laws to raise by debentures such sums as may be necessary to meet its share of the cost of construction and it is not necessary to obtain the assent of the electors to any such by-law or to observe the other formalities in relation thereto prescribed by *The Municipal Act*, or such share may be assessed under *The Local Improvement Act* according to the report of an engineer. 1957, c. 43, s. 55.

R.S.O. 1960,
cc. 249, 223

County to
make con-
tribution
towards
other roads
in urban
municipality

61.—(1) In addition to the amount that the county may expend in any year on county roads in an urban municipality not separated from the county either directly or pursuant to an agreement under section 59 and on county road extensions or connecting links in such urban municipality pursuant to an agreement under section 60, the county shall in the same year make a contribution towards the construction and maintenance of other roads in such urban municipality.

Form of
contribution

(2) Such contribution may be in the form of work carried out by the county at the request of the urban municipality that is properly chargeable to road improvement under Part X, or in the form of a cash payment towards work carried out by the urban municipality under Part X, or a combination of such forms. 1957, c. 43, s. 56 (1, 2).

Minimum
and
maximum
contribution

(3) Such contribution shall not be less in total value than 25 per cent or more in total value than 50 per cent of the amount levied on the urban municipality for county road purposes in the same year under the by-law mentioned in

section 45, exclusive of any part thereof levied for the purpose of paying off the urban municipality's share of any debenture or other debt of the county, unless the value of the work properly chargeable to road improvement under Part X and actually performed on such other roads in the same year is less than 25 per cent of the amount so levied, and in no case shall such contribution exceed the value of such work so actually performed. 1957, c. 43, s. 56 (3); 1958, c. 35, s. 4.

(4) Where in any year such contribution or a part thereof is to take the form of a cash payment, the urban municipality shall, not later than the 15th day of November in that year, submit to the county road superintendent a certified statement showing in detail the location, nature and extent of the work done on such other roads by the urban municipality and the actual expenditures made thereon, and the county shall pay the amount of the contribution remaining due to the urban municipality under this section on or before the 31st day of December in the same year. How to be paid

(5) The contribution made by the county under this section shall be deemed to be properly chargeable to the county road system and may be included in the statement of expenditures submitted to the Minister by the county under this Part, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent thereof. Subsidy to county

(6) An agreement for the construction of a county road extension or connecting link under section 60 may provide that the county is to be relieved of its obligation to pay any contribution under this section so long as the amount expended by the county under the agreement is greater than the amount that would have been paid by it from year to year under this section, and in that case this section does not apply. 1957, c. 43, s. 56 (4-6). Agreement may exempt county from this section

62.—(1) Sections 452 and 454 of *The Municipal Act* do not apply to a bridge or road crossing or forming a boundary line between counties or between a county and a city or separated town, where the county in the latter case, or one or more of such counties in the former case, have adopted a plan of county road construction and maintenance under this Part, and the plan includes such bridge or road. Disputes as to maintenance, etc., of bridges and roads
R.S.O. 1960, c. 249

(2) Where there is a difference between two or more municipalities in respect of any such bridge or road as to the municipality upon which the obligation rests, as to the construction and maintenance of the bridge or road or as to the proportions in which the municipalities should respectively contribute thereto, or where two or more municipalities are unable to Disputes as to county boundary lines and bridges

agree as to any action, matter or thing to be taken or done in respect of such bridge or road, every such difference shall be determined by the Board upon an application by any municipality interested in such bridge or road.

Hearing

(3) The Board shall appoint a day for the hearing of the application, of which ten days notice in writing shall be given to the clerk of each municipality interested, and shall, at the time and place appointed, hear and determine all matters in difference between the municipalities in regard to such bridge or road, and the Board may make such order as it deems just and proper, and may by the order fix and determine the amount or proportion that each municipality shall pay or contribute towards the construction and maintenance of such bridge or road.

Duration of order

(4) An order of the Board under this section is binding upon all the municipalities interested for such period as the Board determines. 1957, c. 43, s. 57.

Powers of county over roads assumed

63. A county has, in respect of the roads included in the county road system, all the rights, powers, benefits and advantages conferred either by by-law or agreement or otherwise upon the local municipality or local municipalities that had jurisdiction over the roads before they were included in the county road system, and the county may sue thereon in the same manner and to the same extent as the local municipality or municipalities might have done if the roads had not been included in the county road system. 1957, c. 43, s. 58.

Restrictions

64.—(1) A county in which a county road system has been established has, with respect to land lying within a distance of 150 feet from any limit of a county road, all the powers conferred on a local municipality by section 30 of *The Planning Act*.

R.S.O. 1960,
c. 296

Conflict with local by-law

(2) In the event of conflict between a by-law passed under subsection 1 or a predecessor thereof by a county and a by-law passed under section 30 of *The Planning Act* or a predecessor thereof by the local municipality in which the land is situate, the by-law of the county prevails to the extent of such conflict, but in all other respects the by-law passed by the local municipality remains in full force and effect. 1957, c. 43, s. 59, *revised*.

Gas pumps and signs on county roads

65.—(1) A county may, with respect to the roads under its jurisdiction and control, by by-law prohibit or regulate,

(a) the placing, erecting or altering of any gasoline pump within 150 feet of any limit of a road; and

- (b) the displaying of any sign, notice or advertising device within one-quarter mile of any limit of a road.

(2) A by-law passed under this section may provide for the issuing of permits for the placing, erecting, altering or displaying of any gasoline pump, sign, notice or advertising device and may prescribe the form, terms and conditions thereof and the fees to be paid therefor, and may prescribe penalties for contravention of the by-law. Permits

(3) A county shall submit a by-law passed under this section to the Minister for his approval in writing and the by-law shall be in force and effect only on and after the day on which the approval is given. 1957, c. 43, s. 60. Approval

66.—(1) Where in the exercise of its powers or in the performance of its obligations under this Part a county finds that it is necessary to expropriate land for the purpose of opening up, widening, improving, protecting from erosion, altering or diverting a county road, the county may, instead of the procedure provided by *The Municipal Act*, proceed in the manner provided by Part I in the case of lands taken by the Minister under that Part, and the provisions of that Part apply *mutatis mutandis*, and the powers and duties of the Minister as set out in that Part may be exercised and performed in the name of the county. Procedure
on expro-
priation
of land

R.S.O. 1960,
o. 249

(2) The plan and description of the land to be expropriated shall be signed by the warden and clerk of the county and by an Ontario land surveyor, and upon the registration of the plan and description in the proper registry or land titles office the land is vested in the county. 1957, c. 43, s. 61. Plan and
description,
registration

67. The Minister may arrange with the Government of Canada for the construction or maintenance, under the supervision of the county road superintendent and in accordance with the requirements of the Minister, of any road in a township or part of a township constituting an Indian reserve or of any road under the control of the Government of Canada that lies within the limits of a municipality not separated from the county for municipal purposes where the road forms an extension of or connecting link in a county road system, and the Minister may direct payment to the county treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to the percentage of the net expenditure made by the county under such arrangement as is provided for in section 51. 1957, c. 43, s. 62. Roads in
Indian
reserves and
other lands
under the
control of
the Govern-
ment of
Canada

PART VIII

SUBURBAN ROADS

Suburban
roads com-
mission

68.—(1) The Lieutenant Governor in Council, upon application of a county in which a county road system is established under Part VII, may direct that a commission be appointed in respect of each city or separated town in the county and, subject to the approval of the Minister, each commission may designate roads in the county road system as suburban roads and the city or separated town shall contribute towards the construction and maintenance of such roads in accordance with this Part.

Duties

(2) The construction and maintenance of suburban roads and the expenditure thereon shall be directed by the suburban roads commission.

Composi-
tion, in city
of less than
50,000 or
town

(3) In the case of a city having a population of less than 50,000 or of a separated town, the suburban roads commission shall be composed of three persons, one to be appointed by the city or separated town, one by the county, and the third to be agreed upon by the two members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Idem, in
city of
50,000 or
more

(4) In the case of a city having a population of 50,000 or more, the suburban roads commission shall be composed of five persons, two to be appointed by the city, two by the county and the fifth to be agreed upon by the four members so appointed, and in default of such agreement to be appointed by the Lieutenant Governor in Council.

Time for
making
appoint-
ments

(5) The city or the separated town and the county shall make their appointments of members of the suburban roads commission within thirty days from the date of the order in council directing the commission to be appointed.

Term of
office

(6) The members of a suburban roads commission shall hold office for a term of five years from the date of the order in council directing the commission to be appointed and no longer, and at the expiration of the period and thereafter at the expiration of every period of five years, the members of a commission shall be appointed as provided in this section, and any member of a commission is eligible for reappointment.

Appoint-
ment where
default
made

(7) Where a city, separated town or county fails to make an appointment as required by this section, the appointment may be made by the Lieutenant Governor in Council.

Removal
of com-
missioners

(8) A member of a suburban roads commission may be removed and another person appointed in his place by a vote of two-thirds of the members of the council that appointed

him who are present and vote thereon at a regular meeting of the council, if notice of the intention of the council to determine the question of the removal has been given at the next preceding meeting of the council.

(9) Where a member of a suburban roads commission dies or resigns or is removed, the authority by which the member was appointed shall appoint another person to fill the vacancy for the remainder of the term for which the person so dying, resigning or removed was appointed. 1957, c. 43, s. 63 (1-9). Vacancies

(10) Any member of a suburban roads commission who is, directly or indirectly, interested in a contract with the commission or in which the commission has an interest *ipso facto* ceases to be a member of the commission and the vacancy so created shall be filled under subsection 9. 1958, c. 35, s. 5. Interest in contracts

(11) Every suburban roads commission is a corporation and the name by which it is to be known shall be fixed by the Lieutenant Governor in Council. Incorporation and name

(12) Notwithstanding any general or special Act, no person who is a member of the Assembly or of a municipal council or who is an employee of a municipality is eligible to be a member of a suburban roads commission. 1957, c. 43, s. 63 (10, 11). Who ineligible to act as member of commission

69. A plan and description of the suburban roads designated by a suburban roads commission shall be transmitted by the commission to the Minister within six months from the date of the order in council directing the appointment of the commission, and, after the approval thereof by the Minister, no alterations or amendments thereof shall be made by the commission until approved in like manner. 1957, c. 43, s. 64. Deposit of plan

70.—(1) Suburban roads continue to be county roads under the jurisdiction and control of the county and the construction and maintenance thereof shall continue to be under the supervision of the county road superintendent but subject to the direction of the suburban roads commission, and the sums expended for construction and maintenance may be included in the statements of expenditure provided for in section 51, upon which the grants payable by the Province will be determined and paid. Suburban roads continue as county roads

(2) The work on suburban roads may be carried on under the supervision of an engineer with the same professional qualifications as a county road superintendent and employed for that purpose by the commission in place of the county road superintendent, and the provisions of this Act apply to such engineer in the same manner as to a county road Engineer of commission

superintendent, and the declaration of such engineer with respect to work and expenditure on suburban roads shall be accepted in lieu of the declaration of the county road superintendent as required by section 51.

Additional
compensa-
tion to
county road
superin-
tendent

(3) Where the county road superintendent has supervision over work on suburban roads, the commission may by resolution, subject to the approval of the Minister, authorize the payment to him of such annual sum in addition to his salary as county road superintendent as is deemed proper. 1957, c. 43, s. 65.

Expendi-
tures

71.—(1) The expenditures on suburban roads shall be borne by the county, the city or separated town and the Province in the proportion of 25 per cent by the county, 25 per cent by the city or separated town and 50 per cent by the Province, but, where expenditure is made on a bridge or culvert, the Minister may direct the Province to bear a greater proportion, not exceeding 80 per cent thereof, in which case the balance of the expenditure shall be divided equally between the county and the city or separated town.

Appropriation may be
by resolution
of
county
council

(2) An appropriation for the purposes mentioned in this section may be made annually by resolution of the county council and may be made before the designation by the suburban roads commission of the roads upon which the appropriation is to be expended.

Limit of
contribution
by city or
town

(3) The amount to be provided by the city or separated town shall not exceed the proceeds of a rate of one-half mill on the dollar of the value of the rateable property of the city or separated town according to the last revised assessment roll, unless in any year by agreement with the county council the council of the city or separated town by by-law appropriates for work on suburban roads a sum not exceeding the proceeds of a rate of two mills on the dollar of the value of such rateable property, but such by-law shall not be passed until the county council has appropriated an equal amount for the like purposes to be expended in the same year. 1957, c. 43, s. 66.

Notice to
city or
town by
county clerk

72. The clerk of the county shall, not later than the 1st day of March in each year, notify the city or separated town of the amount appropriated by the county for the construction and maintenance of the suburban roads, and the treasurer of the city or separated town shall, not later than the 1st day of November following, transmit the equivalent amount to the treasurer of the county by whom it shall be paid to the order of the suburban roads commission. 1957, c. 43, s. 67.

73.—(1) The council of each city or separated town shall provide annually or from time to time an amount equal to that appropriated by the county council for the construction and maintenance of suburban roads, and such amount is a debt due to the county by the city or separated town.

Provision
for con-
tribution
by city
or town to
suburban
roads

(2) For the purposes of this section, the city or separated town may raise from time to time such sums as may be required for construction by the issue of debentures, as in section 49 provided, but all sums required for the purposes of maintenance shall be provided from the current revenue of the municipality.

Issue of
debentures
for city's
or town's
share

(3) Where it appears that the rate of one-half mill on the dollar mentioned in subsection 3 of section 71 is not sufficient to carry out permanent or extensive work, the city or separated town, with the approval of the Minister, may raise such further sums by the issue of debentures as are deemed necessary, and may apply a portion of the proceeds of the annual rate of one-half mill on the dollar on paying off such debentures.

Issuing
town or city
debentures
for sub-
urban roads

(4) It is not necessary to obtain the assent of the electors to a by-law for the issue of debentures under this section or to observe the other formalities in relation thereto prescribed by *The Municipal Act*. 1957, c. 43, s. 68.

Assent of
electors not
required

R.S.O. 1960,
c. 249

74. No error or omission or insufficiency in the procedure provided for by this Act relieves a county or city or separated town from liability to contribute towards the construction and maintenance of suburban roads, and the treasurer of a city or separated town that is liable to contribute towards the construction and maintenance of suburban roads shall, not later than the 1st day of November in each year, forward to the county treasurer an amount equal to the amount appropriated by the county council for the construction and maintenance of suburban roads in that year, but the amount of such contribution shall be limited as provided by section 71. 1957, c. 43, s. 69.

Informal-
ities not to
invalidate
proceedings

PART IX

TOWNSHIP ROADS

75.—(1) Every township in which statute labour has been abolished by by-law shall, by by-law, appoint a township road superintendent who, subject to the direction of the council, shall inspect all roads under the jurisdiction and control of the township and shall lay out and supervise all work on such roads, and the Minister may direct that out of the moneys

Township
road super-
intendent

appropriated therefor by the Legislature 50 per cent, or such greater proportion as he deems requisite, of the salary and expenses of such superintendent paid by the township shall be reimbursed by the Province.

Approval of
by-law

(2) A copy of the by-law making such appointment shall be transmitted to the Minister within thirty days of the passing thereof and is subject to the approval of the Minister, and when so approved shall not be repealed or amended without the consent in writing of the Minister.

Superin-
tendent to
conform to
requirements

(3) The township road superintendent shall conform to such requirements as the Minister prescribes.

Annual
statement
to Minister

(4) The council of a township in which statute labour has been abolished by by-law shall submit annually to the Minister a statement showing the amount of salary and expenses of the township road superintendent paid by the township, together with a declaration of the township treasurer that the statement is correct and also a declaration of the superintendent that he has *bona fide* performed the duties of superintendent, and on receipt of the statement and declarations the Minister may direct the Treasurer of Ontario to pay to the township the amount to which the township is entitled under this section. 1957, c. 43, s. 70 (1-4).

Councillors
disqualified
as township
road super-
intendent
R.S.O. 1960,
c. 249

(5) Notwithstanding *The Municipal Act*, no member of the council of the township shall be appointed or act as township road superintendent or be employed by the township road superintendent in any capacity, and any such member who is appointed or acts or is employed in contravention of this subsection forfeits his seat and is disqualified from sitting or voting in the council of which he was a member at the time of the contravention. 1957, c. 43, s. 70 (5); 1960, c. 44, s. 6.

Appoint-
ment by
Minister

(6) Where a township receives aid from the Province in excess of 60 per cent of the cost of work done upon township roads, the Minister may appoint a road superintendent for the purpose of supervising work to be undertaken, and in that case it is not necessary for the township to appoint a road superintendent and the superintendent appointed by the Minister has and may exercise as to the work all the powers of a township road superintendent appointed under subsection 1. 1957, c. 43, s. 70 (6).

Grants in
aid of town-
ship road
work

76.—(1) A township in which statute labour has been abolished by by-law may submit to the Minister for approval such plans, specifications or by-laws as he requires for any or all of the following purposes:

1. Grading.
2. Drainage for road purposes.

3. Graveling, metalling with broken stone, or the construction of any kind of road surface.
4. Dust prevention by oiling, tarring or other means.
5. The systematic maintenance by dragging, graveling or other means.
6. The construction of bridges, culverts and approaches thereto.
7. The opening of a new road or the relocating, widening or straightening of an existing road.
8. The purchase of gravel pits, stone quarries, materials, equipment and machinery.
9. Such purposes of road improvement as the Minister approves.

(2) The township shall submit a by-law covering the estimated expenditure on all road construction and maintenance for the calendar year to the Minister for his approval not later than the 31st day of March of the year in which the expenditure is to be made, and no subsidy shall be granted to the township in respect of expenditure that has not been provided for by a by-law approved by the Minister. 1957, c. 43, s. 71 (1, 2).

Submission
of by-law
covering
estimated
expenditure

(3) A township may at any time submit to the Minister for his approval a by-law covering an estimated expenditure on road construction and maintenance supplementing the by-law submitted under subsection 2. 1958, c. 35, s. 6.

Supple-
mentary
by-law

(4) The Minister may direct that a subsidy under this Part shall be paid to a township in respect only of the expenditure on such road construction or maintenance as he designates and in every such case the by-law mentioned in subsection 2 shall cover only the estimated expenditure on work so designated. 1957, c. 43, s. 71 (3).

Minister
to direct
subsidy to
be paid to
township

77. Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, no subsidy shall be paid to the township under this Part for any expenditure made on the opening or constructing of any road in the subdivision unless the road is a main thoroughfare for traffic or is designated and laid out as such and is so designated by the Minister. 1958, c. 35, s. 7.

Opening or
construct-
ing road in
subdivision
not eligible

78.—(1) When approved by the Minister, the work or expenditure for a purpose mentioned in section 76 shall be carried out in accordance with the requirements of the Minister and, upon the completion of any such work or expenditure, the township may submit to the Minister an application under section 79 for the subsidy authorized by this Part.

Application
for subsidy

Cost of ferry
service may
be included

(2) Where the township is an island, expenditure for which the township may be entitled to aid under this Part may include the whole, or such proportion as the Minister directs, of the cost of establishing and maintaining a ferry service between the island and the mainland by the township, its lessee or licensee.

Roads in
Indian
reserves

(3) The Minister may arrange with the Government of Canada that a superintendent of an Indian agency for an Indian reserve may act as road superintendent to supervise the construction and maintenance, in accordance with the requirements of the Minister, of the roads in any township or part of a township constituting the Indian reserve and, where such an arrangement has been made, the Government of Canada may apply under section 79 for the subsidy authorized by this Part, and this Part applies *mutatis mutandis* thereto. 1957, c. 43, s. 72, *amended*.

Annual
statement
to Minister

79.—(1) A township shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the township road superintendent that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the township treasurer that the statement of receipts and expenditures is correct and that it contains no item of expenditure whether for labour or materials that was not paid to the persons performing the work or supplying the materials in cash or by cheque of the township; and
- (d) a petition for the payment of the subsidy authorized by resolution of the council.

Amount of
subsidy

(2) Upon the receipt of the statement, declarations and petition, the Minister may direct payment to the township treasurer out of the moneys appropriated therefor by the Legislature of an amount equal to 50 per cent of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

Where rate
of subsidy
may be
varied

(3) Notwithstanding subsection 2, the Minister, having regard to the economic condition of the township and the adequacy of its plan of road improvement, may direct payment to the township treasurer out of the moneys appropriated therefor by the Legislature of such amount as he deems requisite,

- (a) in the case of a bridge or culvert, up to 100 per cent; and
- (b) in the case of any other road improvement, up to 80 per cent,

of the amount of the expenditure that is properly chargeable to road improvement.

(4) Expenditure in respect of which aid may be granted ^{Exclusions} under this section does not include,

- (a) any amount levied in the township for county road purposes; or
- (b) except with the consent of the Minister, any other road expenditure towards which a contribution has been paid or may be payable from any source. 1957, c. 43, s. 73.

80.—(1) A city or town in a provisional judicial district, ^{Contribution of city or town in a provisional judicial district to improvement of township roads} by by-law passed with the assent of at least two-thirds of the members of its council, may agree with a township to share the cost of construction or maintenance of any township road that leads or is adjacent to the city or town or which, by reason of the existence of the city or town, is subject to extraordinary traffic.

(2) Where the cost of construction or maintenance of a ^{How cost to be borne} township road is shared by a city or town under an agreement made under this section, the Minister may direct that there shall be paid to the township out of the moneys appropriated therefor by the Legislature such proportion of the expenditure made on such road as is fixed under this Part for expenditure on township roads in that township and the balance of the expenditure shall be shared equally by the township and the city or town. 1957, c. 43, s. 74.

81. The council of a township in which statute labour has ^{Different rates in summer resort or suburban areas} been abolished by by-law, and

- (a) in which subdivisions have been laid out; or
- (b) in which parts are used or occupied as summer resorts or are adjacent to a city,

may by by-law separate the subdivisions or parts for the purposes of taxation from the remainder of the township by defining the limits of the subdivisions or parts and in imposing the township rate for road purposes may impose and levy a higher rate upon the subdivisions or parts than upon the remainder of the township, but no such by-law has effect until it has been approved in writing by the Minister and the amount raised by increasing the rate shall not be included

in determining the expenditure of the township on which any subsidy may be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 43, s. 75.

PART X

CITY, TOWN AND VILLAGE ROADS

Submission
of by-law
covering
estimated
expenditure
R.S.O. 1960,
c. 260

82.—(1) Every city, town and village, except a city or separated town in a county other than an area municipality under *The Municipality of Metropolitan Toronto Act* that does not contribute towards the construction and maintenance of suburban roads, may submit a by-law covering the estimated expenditure on the construction and maintenance of its roads for the calendar year to the Minister for his approval not later than the 31st day of March of the year in which the expenditure is to be made, and no subsidy shall be granted to a city, town or village in respect of expenditure that has not been provided for by a by-law approved by the Minister. 1957, c. 43, s. 76.

Supplemen-
tary by-law

(2) A city, town or village may at any time submit to the Minister for his approval a by-law covering an estimated expenditure on road construction and maintenance supplementing the by-law submitted under subsection 1. 1958, c. 35, s. 8.

Annual
statement
to Minister

83.—(1) Where the Minister has approved a by-law to provide for expenditure under this Part, the city, town or village shall annually, and may with the consent of the Minister at any time during the progress of road construction or maintenance, submit to the Minister,

- (a) a detailed statement of receipts and expenditures in the form prescribed by the Minister;
- (b) a declaration of the engineer or other officer of the municipality who is charged with the responsibility of directing and supervising the work that the statement of receipts and expenditures is correct and that the work has been done in accordance with the requirements of the Minister;
- (c) a declaration of the treasurer of the municipality that the statement of receipts and expenditures is correct; and
- (d) a petition for the payment of the subsidy authorized by resolution of the council.

Payment
of subsidy

(2) Upon the receipt of the statement, declarations and petition, the Minister may direct payment to the treasurer

of the municipality out of the moneys appropriated therefor by the Legislature of an amount equal to,

- (a) in the case of a city or separated town, $33\frac{1}{3}$ per cent; and
- (b) in all other cases, 50 per cent,

of the amount of the expenditure that is properly chargeable to road improvement and in all cases the decision of the Minister is final.

(3) Notwithstanding subsection 2, in the case of a town not being a separated town or of a village, the Minister, having regard to the economic condition of the town or village and the adequacy of its plan of road improvement, may direct payment to the treasurer of the town or village out of the moneys appropriated therefor by the Legislature of such amount as he deems requisite,

Where rate of subsidy may be varied

- (a) in the case of a bridge or culvert, up to 80 per cent; and
- (b) in the case of any other road improvement, up to 50 per cent,

of the amount of the expenditure that is properly chargeable to road improvement.

(4) Where the construction or maintenance of a road in a city, town or village that is a connecting link or extension of the King's Highway is carried out under an agreement made with the Minister under section 22, the expenditure made by the city, town or village on such road shall not be included in the statement submitted to the Minister under this section unless the work on which the expenditure is made is additional to that provided for in the agreement and is properly chargeable to road improvement under this Part. 1957, c. 43, s. 77.

In case of expenditure on connecting link of the King's Highway

84. Expenditures that are properly chargeable to road improvement include those made for any or all of the following purposes:

Expenditures eligible for subsidy

1. Opening a new road and acquiring the necessary land therefor.
2. Clearing a road of obstructions.
3. Widening, altering or diverting a road.
4. Subject to *The Public Service Works on Highways Act*, taking up, removing or changing the location of appliances or works placed on or under a road by an operating corporation.

R.S.O. 1960, c. 333

5. Constructing and maintaining bridges, culverts or other structures, other than sewers, incidental to the construction of a road.
6. Grading.
7. Constructing and maintaining an approved base for the road surface including the installing and maintaining of under-drainage therefor, other than sewers.
8. Constructing and maintaining any type of road surface.
9. Constructing and maintaining curbs, gutters and catch basins.
10. Clearing snow and applying chemicals or abrasives to icy surfaces.
11. Such purposes of road improvement as the Minister approves. 1957, c. 43, s. 78.

Opening or
constructing
road in
subdivision
not eligible

85. Where the whole or a part of an original township lot has been subdivided into lots and is being developed for building purposes, the expenditures made on the opening or constructing of any road therein are not properly chargeable to road improvement under this Part unless the road is a main thoroughfare for traffic or is designed and laid out as such and is so designated by the Minister. 1957, c. 43, s. 79.

Expendi-
tures, how
provided for

86. Except with the consent of the Minister, no expenditures, other than those that are provided for entirely by aid granted under this Part and out of funds raised by a general rate levied upon all the rateable property in the municipality or by the issue of debentures to be retired by a general rate so levied, shall be included in the statement submitted under section 83. 1957, c. 43, s. 80.

Contribu-
tion of
county
under s. 61
may be in-
cluded in
statement
for subsidy

87. Notwithstanding section 86, any contribution made by a county under section 61 towards the construction and maintenance of roads, other than county roads or county road extensions or connecting links, in an urban municipality not separated from the county may be included in the statement submitted to the Minister under section 83 for the purpose of determining the grant payable to such urban municipality under this Part, and where such contribution is in the form of work carried out by the county, the value of such work as certified by the county road superintendent may be so included. 1957, c. 43, s. 81.

88. In the case of a city or separated town, the Minister may require that of the expenditure to be made under this Part so much as is necessary shall be made on the construction and maintenance of the roads that he designates as extensions or connecting links of the King's Highway. 1957, c. 43, s. 82.

King's
Highway
extension
or con-
necting link

89. Where under paragraph 3 of subsection 1 of section 468 of *The Municipal Act* a city, town or village grants aid to a township towards the construction or maintenance of a township road, the aid so granted is properly chargeable to road improvement and may be included in the statement of expenditures submitted to the Minister by the city, town or village under this Part. 1957, c. 43, s. 83.

Aid granted
to township
by city,
town or
village to be
subsidized
R.S.O. 1960,
c. 249

PART XI

DEVELOPMENT ROADS

90.—(1) The Minister may designate as a development road a road or proposed road under the jurisdiction and control of a municipality, other than a city, separated town, town or village, which because of the requirements of traffic he considers should be constructed, improved or maintained to a higher standard than is reasonable having regard to the economic situation of the municipality.

Designation
of develop-
ment roads

(2) The Minister and the municipality may enter into an agreement for the construction or maintenance of a development road designated under subsection 1, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of such proportion of the cost thereof as he deems requisite.

Construction
and main-
tenance
agreements

(3) A development road designated under subsection 1 remains under the jurisdiction and control of the municipality. 1959, c. 42, s. 2.

Road
remains
under
control of
municipality

PART XII

ROADS IN TERRITORY WITHOUT MUNICIPAL ORGANIZATION

91.—(1) In this section,

Interpre-
tation

- (a) "cost of the work" includes the actual amount paid for materials and rental of machinery, the value of labour employed on the work, the salary of the secretary-treasurer of the road commissioners elected under *The Statute Labour Act*, and the sheriff's costs in connection with the sale of land for arrears of statute labour;

R.S.O. 1960,
c. 382

- (b) "value of the labour employed on the work" shall be computed on the basis of the actual time worked applied to the rates of wages prevailing in the locality in which the work is performed.

Arrange-
ments for
construction
or main-
tenance

(2) The Minister may arrange with the road commissioners elected under *The Statute Labour Act* or with a person who is the owner of land in territory without municipal organization for the construction or maintenance of a road therein, and the Minister may direct payment out of the moneys appropriated therefor by the Legislature of an amount equal to such proportion of the cost of the work as he deems requisite.

Where in-
corporation
desirable
R.S.O. 1960,
c. 249

(3) Where the Minister deems it desirable that the inhabitants of any territory without municipal organization should become incorporated under *The Municipal Act*, the amount that may be paid out under this section in respect of a road in that territory shall not exceed 50 per cent of the value of the labour employed on the work. 1957, c. 43, s. 85.

PART XIII

GENERAL

Controlled-
access road
designation

92. Subject to the approval of the Board, a municipality may by by-law designate any new road established under section 459 of *The Municipal Act* as a controlled-access road.

Interpre-
tation

93.—(1) In this section, "road" includes an unopened road allowance.

Closing of
intersecting
municipal
roads

(2) Subject to the approval of the Board, a municipality may by by-law close a municipal road that intersects or runs into a controlled-access road designated under section 92.

Application
for approval

(3) The Board may direct that notice of an application for approval of the closing of a road under this section shall be given at such time, in such manner and to such persons as the Board determines, and may further direct that particulars of claims in respect of land injuriously affected by the closing and particulars of objections to the closing shall be filed with the Board and the municipality within such time as the Board directs.

Powers of
Board

(4) Upon the hearing of the application, the Board may make an order refusing its approval or granting its approval upon such terms and conditions as it deems proper.

Appeal

(5) The municipality or any person, including a municipality or a local board thereof, that has filed particulars of a claim or objection may, with leave of the Court of Appeal,

appeal to that court from any order made under subsection 4, and subsections 4 to 6 of section 11 apply *mutatis mutandis* thereto.

(6) Upon the closing of a road in accordance with an order of approval, the municipality shall make due compensation to the owner of land injuriously affected by the closing and every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11 which subsections apply *mutatis mutandis*, but no claim by or on behalf of a person who has not filed particulars of his claim within the time directed by the Board under subsection 3 shall be allowed except by leave of the Board. 1957, c. 43, s. 87. Compensation

94.—(1) A municipality may pass by-laws prohibiting or regulating the construction or use of any private road, entranceway, gate or other structure or facility as a means of access to a controlled-access road designated under section 92 and may impose penalties for contravention of any such by-law. Private roads, etc., opening upon controlled-access road

(2) The municipality may give notice to the owner of any land requiring him to close up any private road, entranceway, gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 92 in contravention of a by-law passed under subsection 1. Notice

(3) Every notice given under subsection 2 shall be in writing and shall be served personally or by registered letter and in the case of service by registered letter shall be deemed to have been received on the second day following the mailing thereof. Service of notice

(4) Where the person to whom notice is given under subsection 2 fails to comply with the notice within thirty days after its receipt, the municipality may by resolution direct any officer, employee or agent of the municipality to enter upon the land of such person and do or cause to be done whatever is necessary to close up the private road, entranceway, gate or other structure or facility as required by the notice. Failure to comply with notice

(5) Every person who fails to comply with a notice given under subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not less than \$10 and not more than \$100 for a first offence and to a fine of not less than \$50 and not more than \$500 for any subsequent offence. Offence

(6) Where a notice given under subsection 2 has been complied with, the municipality shall make due compensation to the owner of the land if the private road, entranceway, Compensation

gate or other structure or facility constructed or used as a means of access to a controlled-access road designated under section 92 was constructed or used, as the case may be,

- (a) before the day on which the by-law designating the road as a controlled-access road became effective; or
- (b) in compliance with a by-law passed under subsection 1, in which case the making of compensation is subject to any provisions of such by-law.

Procedure

(7) Every claim for such compensation shall be determined in accordance with subsections 2 to 6 of section 11 which subsections apply *mutatis mutandis*. 1957, c. 43, s. 88.

Authority of road superintendent with regard to drainage
R.S.O. 1960, c. 109, 252

95. The road superintendent appointed by a road authority under this Act may, without any direction from the Minister or road authority by which he is appointed, initiate and carry out proceedings under *The Ditches and Watercourses Act* and may sign petitions under *The Municipal Drainage Act* for the purpose of procuring proper drainage for any road within the jurisdiction and control of the road authority, and he has authority to file or receive notices as owner in accordance with the procedure prescribed by such Acts. 1957, c. 43, s. 89.

Obtaining gravel for road purposes
R.S.O. 1960, c. 249

96.—(1) Notwithstanding *The Municipal Act*, a road superintendent may, without the passing of a by-law or resolution, apply to the owner of any gravel pit or gravel land for gravel for road purposes.

Application to state price offered

(2) The road superintendent shall state in the application the price per cubic yard or per acre of such amount of gravel as he requires.

Application to county judge to fix price

(3) If the owner does not, within three days after receiving the application, agree with the road superintendent to sell the gravel or the land and as to the price at which the same shall be sold, the road superintendent may, upon seven days notice in writing to the owner, apply to a judge of the county or district court of the county or district in which the gravel or the land is situate for an order fixing the price to be paid for the gravel or the land, and the judge upon the application and upon hearing such evidence as he deems necessary may fix the price per cubic yard or per acre to be paid for the gravel or the land and may order and direct that upon the payment or tendering of the price so fixed the road superintendent, by his servants or agents, may enter upon the lands and take the gravel so required.

Appeal

(4) An appeal lies from the order of the judge of the county court to the Court of Appeal. 1957, c. 43, s. 90.

97.—(1) While a work authorized by this Act is in progress on a road, other than the King's Highway, the road superintendent or a person authorized by him may close to traffic the road for such time as the road superintendent or such person, as the case may be, deems necessary. Closing road to traffic

(2) While a road is so closed to traffic, the municipality having jurisdiction and control of the road shall provide and keep in repair an alternative route for traffic and for property owners who cannot obtain access to their property by reason of such closing, and for the period during which the road is closed to traffic the alternative route is under the jurisdiction and control of that municipality. Alternative route to be provided

(3) While a road is so closed to traffic, the road superintendent or a person authorized by him shall protect it by erecting or causing to be erected at each end of the road so closed, and wherever an alternative route deviates from it, a barricade upon which a red light shall be exposed and kept burning continuously from sunset until sunrise and at such points shall put up a detour sign indicating the alternative route and containing a notice that the road is closed to traffic. Barricades

(4) Every person using a road closed to traffic in accordance with this section does so at his own risk and the municipality having jurisdiction and control of the road is not liable for any damage sustained by a person using a road so closed to traffic. No municipal liability

(5) Every person who without lawful authority uses a road so closed to traffic while it is protected in accordance with subsection 3, or who removes or defaces any barricade, light, detour sign or notice placed thereon by lawful authority, is guilty of an offence and on summary conviction is liable to a fine of not more than \$50 and is also liable to the municipality having jurisdiction and control for any damage or injury occasioned by such wrongful use, removal or defacement. Offence

(6) This section applies to any road for which provision has been made under any Act for the construction, maintenance and control thereof by a commission appointed by the Lieutenant Governor in Council. 1957, c. 43, s. 91. Application of section to special cases

98. Where an engineer of the Department reports to the Minister that a municipal road is out of repair, the Minister may, after at least two months notice in writing to the municipality, direct the Department to undertake the work of putting the road in repair, and the cost of the work is chargeable to and is a debt due from the municipality to the Crown, and the Minister may direct that the cost shall be deducted from any sums of money payable to the municipality under this Act. 1957, c. 43, s. 92. Repair and maintenance of road by Department on default of municipality

Excavated
material

99. Notwithstanding any other Act, no earth, debris or excavated material shall be deposited within the limits of a road without permission in writing so to do from the road authority responsible for the maintenance of the road. 1957, c. 43, s. 93.

Local mun-
icipalities
may con-
struct
sidewalks,
etc.

100.—(1) A local municipality may construct a sidewalk or other improvement or service on a highway or road with the written consent of the authority having jurisdiction and control of the highway or road.

How cost
provided

(2) The cost of such a sidewalk, improvement or service may be met out of the general funds of the local municipality or out of funds of the authority having jurisdiction and control of the highway or road, or the work may be undertaken as a local improvement under *The Local Improvement Act*.

R.S.O. 1960,
c. 223

Local
municipality
to conform
to require-
ments and
be respon-
sible for
damage

(3) A local municipality when constructing such a sidewalk, improvement or service shall conform to any requirements or conditions imposed by the authority having jurisdiction and control of the highway or road, and is responsible for any injury or damage occasioned by the construction or presence of the sidewalk, improvement or service.

Construction
of sidewalk
or footpath

(4) A township may apply to the Minister for authority to construct a sidewalk or footpath on the King's Highway or a county road and the Minister may grant the authority, and upon completion of the work may approve thereof at his discretion, and, upon the approval being given, the township may apply to the Minister in the form prescribed by him for the payment to it out of the moneys appropriated therefor by the Legislature of an amount not exceeding 50 per cent of the cost of the work, and the Minister may authorize the payment. 1957, c. 43, s. 94.

Planting
trees

101. A municipality or suburban roads commission may plant trees on its roads, and the cost of the work shall be deemed to be part of the cost of maintaining the road. 1957, c. 43, s. 95.

Agreement
with owner
for removal

102.—(1) A road superintendent, with the approval of the road authority, may enter into an agreement with the owner of any land adjacent to a road under the jurisdiction and control of the road authority for the removal of any tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjoining the road and that may cause the drifting or accumulation of snow or may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road, and the agreement may provide for the amount of compensation to be paid to the owner for damages caused to him by reason of the removal.

(2) Where the road superintendent is of the opinion that a tree, shrub, bush, hedge, fence, sign board, gasoline pump, building or other object growing or standing on the road or on land adjacent to the road will cause the drifting or accumulation of snow or will injuriously affect the road or will obstruct the vision of pedestrians or drivers of vehicles on the road and he is unable to agree with the owner of the land for the removal of the same or as to the amount of compensation to be paid therefor, he may, with the approval of the road authority, apply to the judge of the county court of the county in which the land affected is situated for an order authorizing him to enter upon the land affected and remove any object with respect to which the application is made, and the judge, upon such notice to the owner of the land as he deems proper, may make such order and may fix the amount of compensation to be paid to the owner and give such directions as to costs as in his opinion are equitable.

Application
to judge for
order to
remove

(3) *The Judges' Orders Enforcement Act* applies to every application and order made under subsection 2.

Application
of R.S.O.
1960, c. 196

(4) A county or township may by by-law determine and fix the distance from the centre line of a road under its jurisdiction and control within which the owner of any lands adjacent to the road shall not plant or cause to be planted any tree, shrub, bush or hedge, or erect or cause to be erected any fence, sign board, gasoline pump, building or other structure that may cause the drifting or accumulation of snow or that may injuriously affect the road or obstruct the vision of pedestrians or drivers of vehicles on the road. 1957, c. 43, s. 96.

By-laws for
clearing
adjacent
land

103.—(1) A municipality, other than a city or separated town, with the approval of the Minister, may make an agreement with the road authority having jurisdiction and control of the King's Highway, a county road or a suburban road for the widening of the highway or road in the municipality, and may make a further agreement with the road authority and any municipality or commission interested in the highway or road and with any municipality, commission or company owning or operating a street railway or electric railway on the highway or road fixing the proportions in which the cost of the widening and of the removal or replacing or altering of the tracks of the street railway or electric railway consequent upon the widening shall be borne by the municipality, the road authority, any municipality or commission interested in the highway or road and by the municipality, commission or company owning or operating the street railway or electric railway.

Agreements
for widening

Apportion-
ing cost

(2) Where the parties to the proposed agreement are unable to agree as to the proportion in which each of them shall so contribute, the proportion shall be determined by the Board and the decision of the Board is final and conclusive and is not subject to any appeal.

By-law for
acquiring
land

(3) Subject to the terms of the agreement entered into with the road authority for the widening of the highway or road, the municipality may pass by-laws for acquiring by purchase or otherwise or for expropriating any land described in the agreement or necessary to carry out the provisions thereof, and *The Municipal Act* as to the acquiring, occupying or taking of land for municipal purposes applies to the acquiring, occupying or taking of land under the by-law.

R.S.O. 1960,
c. 249

Voluntary
contribu-
tions from
muni-
cipalities

(4) A county not having jurisdiction and control of the highway or road but through which the highway or road passes may agree to contribute to the cost of the widening of the highway or road, but nothing in this section renders it compulsory for the county to so contribute. 1957, c. 43 s. 97.

Aid to com-
missions
governing
certain
localities

104. A commission appointed under an Act of the Legislature for the purpose of exercising or carrying out in any particular locality powers elsewhere exercisable by a municipality with respect to the construction of roads has the like rights and powers and shall perform the like duties and is entitled to the same aid as a township under this Act. 1957, c. 43, s. 98.

Vouchers

105. Where a subsidy is applied for under this Act, vouchers covering all expenditures in respect of which the subsidy is applied for shall be furnished to the Minister in a form satisfactory to him and the Minister may require the production of any book, statement or other document respecting the subsidy. 1957, c. 43, s. 99.

Approval of
by-laws by
Minister

106. Any by-law that is submitted to the Minister for approval under this Act may be approved in whole, in part or subject to conditions and, where the by-law is approved in part or subject to conditions, the by-law has force and effect only as so approved. 1959, c. 42, s. 3.

Warrant

107.—(1) If resistance or opposition is made to the Minister or any person authorized by him entering upon or taking possession of land under this Act or exercising any other power in respect of land under this Act, the Minister may apply to a judge of the Supreme Court or to the judge of the county or district court of the county or district in which the land is situate for a warrant (Form 1) directing

the sheriff of the county or district to put down such resistance or opposition and to put the Minister in possession of the land or to take such steps as may be necessary to enable the Minister to exercise such power.

(2) The judge shall in writing appoint a time and place ^{Hearing} for the hearing of the application and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes.

(3) On proof of such resistance or opposition and of the ^{Issue of} interest of the Crown in such land or of the intention of the ^{warrant} Minister to exercise a power in respect thereof, the judge may issue the warrant.

(4) The sheriff shall forthwith execute the warrant and ^{Execution} make a return to the judge of the execution thereof. 1957, ^{of warrant} c. 43, s. 100.

108. The cost of material, labour, special engineering or ^{How cost} other services, land and property or options thereon, plant, ^{to be} machinery and equipment and the repair and maintenance of ^{provided} plant, machinery or equipment and all expenditure in or about any work undertaken by the Minister under this Act or incidental thereto, or contracts therefor, shall be paid out of the moneys appropriated therefor by the Legislature. 1957, c. 43, s. 101.

109.—(1) The Highway Reserve Account in the Consolidated Revenue Fund is continued under the name of the ^{Highway} Highway Construction Account and such amounts as are ^{Construction} appropriated by the Legislature for that account shall be ^{Account} credited to that account.

(2) The Minister may pay out of the Highway Construction ^{Idem} Account expenditures incurred in the construction of highways. 1957, c. 43, s. 102.

110. Notwithstanding anything in any other Act, all fines ^{Disposition} and other penalties recovered for offences under this Act com- ^{of fines} mitted on or with respect to a highway under the jurisdiction and control of the Department shall be paid to the Department. 1957, c. 43, s. 103.

FORM 1

WARRANT

(Sec. 107)

PROVINCE OF ONTARIO

COUNTY (or DISTRICT) OF

IN THE MATTER OF
The Highway Improvement Act
 AND IN THE MATTER OF

.....

To

SHERIFF, ETC.:

WHEREAS resistance or opposition has been made to the Minister of Highways or a person authorized by him entering upon or taking possession of (*or as the case may be*) the land described as follows:

AND WHEREAS the proof required by section 107 of *The Highway Improvement Act* has been made before me;

THIS IS THEREFORE to command you in Her Majesty's name forthwith to put down such resistance or opposition and put the Minister of Highways in possession of the said land (*or*, to put down such resistance or opposition and take such steps as may be necessary to enable the Minister of Highways to), and to make a return to me of your execution hereof.

GIVEN under my hand this day of, 19.....

.....
 JUDGE

1957, c. 43, Form 1.